



CITY OF BURBANK
PURCHASING DIVISION
301 EAST OLIVE AVENUE P.O.BOX 6459
BURBANK, CALIFORNIA 91510-6459
(818) 238-5466

04-MAY-11

STANDARD PURCHASE ORDER NO

126888 REV 0

Page 1 of 1

THE ABOVE NUMBER MUST APPEAR ON ALL
INVOICES, SHIPPING PAPERS, PACKAGES, AND
CORRESPONDENCE

PLEASE DELIVER TO:
PARKS & RECREATION
ADMINISTRATION
275 EAST OLIVE AVE
Burbank, CA 91502-1232
United States

DELIVERY DUE

F.O.B : Delivery

TERMS: Net 30

VENDOR NAME AND ADDRESS:

AHBE LANDSCAPE ARCHITECTS
8729 WASHINGTON BLVD
CULVER CITY, CA 90232
United States

| | | | | | |
|--|-----------------------------------|---|---------|--------------------|--------------|
| REQ # 20241 | REQUESTED BY : BARTOLO, JANICE G. | VENDOR # 43969 | PHONE # | | |
| ITEM | DESCRIPTION | QTY | UOM | UNIT PRICE | TOTAL AMOUNT |
| <p>THIS AGREEMENT IS VALID FROM 4/18/11 THROUGH 4/18/14.</p> <p>TO PROVIDE LANDSCAPE ARCHITECTURAL SERVICES TO THE PARK, RECREATION AND COMMUNITY SERVICES DEPARTMENT OF THE CITY OF BURBANK FOR THE JOHNNY CARSON PARK REVITALIZATION PROJECT, PER THE PROFESSIONAL SERVICES AGREEMENT DATED 3/30/11. AUTHORIZED BY THE REDEVELOPMENT AGENCY RESOLUTION NO. R-2247 AND CITY COUNCIL RESOLUTION NO. 28,304, PASSED AND ADOPTED ON 3/29/11.</p> | | | | | |
| 1 | NOT TO EXCEED | | Dollar | | 458,163.00 |
| <p>INSURANCE: VENDOR SHALL MAINTAIN CURRENT, VALID, COMMERCIAL GENERAL LIABILITY WITH SEPARATE ADDITIONAL INSURED ENDORSEMENT, AUTO LIABILITY, WORKERS' COMPENSATION, AND ERRORS AND OMISSIONS INSURANCE DOCUMENTS ON FILE IN THE CITY OF BURBANK PURCHASING OFFICE DURING THE EFFECTIVE DATES OF THIS ORDER. INSURANCE DOCUMENTS SHALL BE APPROVED BY THE BURBANK CITY ATTORNEY'S OFFICE BEFORE THEY ARE CONSIDERED VALID. FAILURE TO PROVIDE SUCH INSURANCE WHEN REQUESTED OR UPON RENEWAL SHALL CAUSE THE CITY TO STOP WORK IN PROGRESS AND WITHHOLD PAYMENTS UNTIL THE INSURANCE IS BROUGHT INTO COMPLIANCE.</p> <p>OFF! AMENDS AGREEMENT TO INCREASE SCOPE OF WORK TO PREPARE FOR STATE OF CALIFORNIA SITE VISIT RE AMENDMENT NO. 1 TO AGREEMENT, DATED 7/18/12</p> | | | | | |
| REFER QUESTIONS TO (818) 238-5466 | | BUYER NAME: P HERMAN VENDOR CONTACT: | | TOTAL \$458,163.00 | |

NOTICE: This order is subject to the terms and conditions shown on the face and reverse side hereof.
The City is exempt from Federal Excise Tax.

MAIL INVOICE IN DUPLICATE TO
PARKS & RECREATION
ADMINISTRATION
275 EAST OLIVE AVE
Burbank, CA 91502-1232
United States

CITY OF BURBANK, CALIFORNIA

PURCHASING MANAGER

TERMS AND CONDITIONS

Acceptance of order constitutes acceptance of the terms, prices, delivery instructions, specifications and conditions stated therein, including the following:

Vendor agrees to save the City harmless from any liability arising from the misuse or infringement of any patented or copyrighted articles sold hereunder.

City reserves the right to cancel all or any portion of this order if not filled within the time specified.

City also reserves the right to correct typographical errors wherever they may appear in this order.

Municipalities are exempt from Federal Excise and Transportation Taxes. Prices shall **EXCLUDE** Federal Taxes. Exemption Certificate will be furnished on request.

Transportation charges must be prepaid by vendor on all purchases where the FOB point is other than Burbank, California. These charges may be added to vendor's invoice and shall be shown as a separate item.

No charges for transportation, containers, packing, etc., will be allowed vendor unless so specified in this order.

In case of default by the vendor, the City may procure the articles or services from other sources and may default from unpaid balance due the vendor or may collect against the bond or surety, if any, for excess costs so paid. The prices paid by the City shall be considered the prevailing market price at the time such purchase is made. Reasonable attorney's fee shall be awarded City in the event suit is filed and City recovers excess costs.

Cost of inspection on deliveries or offers for delivery, which do not meet specifications, will be the account of the vendor.

Vendor will not be held liable for failure or delay in the fulfillment of this order if hindered or prevented by fire, strikes, or Acts of God.

This order, attachment, and/or documents cited in this order represent the entire Agreement between the City and the Vendor.

The laws of the State of California shall govern this transaction.



CITY OF BURBANK
PURCHASING DIVISION
301 EAST OLIVE AVENUE P.O.BOX 6459
BURBANK, CALIFORNIA 91510-6459
(818) 238-5466

STANDARD PURCHASE ORDER NO
126888 REV 1

Page 1 of 1

07-AUG-12

Changed Purchase Order

THE ABOVE NUMBER MUST APPEAR ON ALL INVOICES,
SHIPPING PAPERS, PACKAGES, AND CORRESPONDENCE

PLEASE DELIVER TO:

PARKS AND RECREATION
ADMINISTRATION
150 N THIRD ST 3RD FL
Burbank, CA 91502-1232
United States

DELIVERY DUE

F.O.B : Delivery
TERMS: Net 30

VENDOR NAME AND ADDRESS:

AHBE LANDSCAPE ARCHITECTS
8729 WASHINGTON BLVD
CULVER CITY, CA 90232
United States

| | | | | | | | |
|--|-------------|---------------------------------|---|----------------|------------------|------------------------|--|
| REQ # | | REQUESTED BY BARTOLO, JANICE G. | | VENDOR # 43969 | | PHONE # (301) 838-0448 | |
| ITEM | DESCRIPTION | QTY | UOM | UNIT PRICE | TOTAL AMOUNT | | |
| <p>THIS AGREEMENT IS VALID FROM 4/18/11 THROUGH 4/18/14.</p> <p>TO PROVIDE LANDSCAPE ARCHITECTURAL SERVICES TO THE PARK, RECREATION AND COMMUNITY SERVICES DEPARTMENT OF THE CITY OF BURBANK FOR THE JOHNNY CARSON PARK REVITALIZATION PROJECT, PER THE PROFESSIONAL SERVICES AGREEMENT DATED 3/30/11. AUTHORIZED BY THE REDEVELOPMENT AGENCY RESOLUTION NO. R-2247 AND CITY COUNCIL RESOLUTION NO. 28,304, PASSED AND ADOPTED ON 3/29/11.</p> <p>CHANGE ORDER NO. 1 - AMENDS AGREEMENT TO INCREASE SCOPE OF WORK TO PREPARE FOR STATE OF CALIFORNIA SITE VISIT PER AMENDMENT NO. 1 TO AGREEMENT FOR ARCHITECTURAL SERVICES DATED JULY 18, 2012.</p> | | | | | | | |
| REFER QUESTIONS TO (818) 238-5466 | | | BUYER NAME: P HERMAN VENDOR CONTACT: | | TOTAL 458,163.00 | | |

NOTICE: This order is subject to the terms and conditions shown of the face and reverse side hereof.
The City is exempt from Federal Excise Tax.

MAIL INVOICE IN DUPLICATE TO
PARKS AND RECREATION
ADMINISTRATION
150 N THIRD ST 3RD FL
Burbank, CA 91502-1232
United States

CITY OF BURBANK, CALIFORNIA


PURCHASING MANAGER

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This order, attachment, and/or documents cited in this order represent the entire Agreement between the City and the Vendor.

The laws of the State of California shall govern this transaction.

All payments made to California Non Residents (not qualified with the Secretary of State) for services provided in the State of California are subject to a 7% withholding which will be paid directly to the State of California. For more information see CA FTB Publication 1017.

2012 AUG 14 AM 8:37
PURCHASING DIV.
CITY OF BURBANK

**AGREEMENT FOR ARCHITECTURAL SERVICES
FOR THE
JOHNNY CARSON PARK REVITALIZATION PROJECT**

DATE: **March 30, 2011**

PARTIES: "OWNER"

THE CITY OF BURBANK, a municipal corporation

Designated Official: Name: Chris Dasté
 Title: Park, Recreation & Community Services
 Director
 Telephone: 818.238.5310

Mailing Address: 150 North Third Street
 Burbank, CA 91502

THE "ARCHITECT"

AHBE Landscape Architects

Representative: Name: Calvin Abe
 Title: President
 Telephone: 310.838.0448
 Fax: 310.204.2664

Mailing Address: 8729 Washington Boulevard
 Culver City, CA 90232

TERM: **Commencement Date: April 18, 2011**
 Completion Date: April 18, 2014

COST OF SERVICES: **\$458,163**

THIS AGREEMENT MUST BE FIRST EXECUTED BY THE ARCHITECT OR ITS REPRESENTATIVE AND APPROVED AS TO FORM BY THE CITY ATTORNEY BEFORE THE AGREEMENT MAY BE EXECUTED ON BEHALF OF THE CITY OF BURBANK.

AGREEMENT FOR ARCHITECTURAL SERVICES

THIS AGREEMENT FOR ARCHITECTURAL SERVICES ("Agreement") is made and effective this 18th day of April 2011, by and between the CITY OF BURBANK, a municipal corporation ("City" or "Owner"), and Calvin R. Abe & Associates, Inc. dba AHBE Landscape Architects, a California corporation ("Architect"). All references to Architect in this Agreement shall refer to Landscape Architect Hereinafter, the Owner and the Architect may be referred to collectively as "Parties." This Agreement is entered into with respect to the following facts:

- A. Owner issued a Request for Proposal ("RFP") in October 2010 to obtain professional design and construction administration services for the Project known as Johnny Carson Park Revitalization Project (the "Project") located at 400 South Bob Hope Drive, City of Burbank, California.
- B. Architect submitted its Proposal Documents to Owner in November 2010 ("Proposal Documents") and was notified on January 18, 2011 of the City's intent to issue an Agreement for Architectural Services with the Architect.

NOW, THEREFORE, in consideration of the covenants hereinafter set forth, Owner and Architect mutually agree as follows:

ARTICLE 1 ARCHITECT'S GENERAL RESPONSIBILITIES

1.1 Services and Phased Authorizations.

Architect agrees to perform during the term of this Agreement, each and every service enumerated herein and in the "Scope of Services" document attached to this Agreement as **Exhibit A** ("Services"). The initiation of each phase of Services by the Architect will commence upon receipt of a written Notice to Proceed from the Owner's Representative designated in **Exhibit B**, authorizing Architect to proceed to the extent of such written authorization.

1.2 Owner's Separate Consultants.

Owner, at its sole option, may retain other Consultants in connection with various phases of design and construction for this Project ("Owner's Separate Consultants"). Owner's Separate Consultants may be designated in **Exhibit B** or, in writing, after execution of this Agreement. Architect acknowledges and agrees that it will coordinate its Services with Owner's Separate Consultants upon written notice by Owner to Architect of their designation including, but not limited to, participating in meetings with the Owner's Separate Consultants without additional charge to Owner. The Owner shall be prudent and efficient when requesting meetings it deems necessary between its Separate Consultants, the Architect, and/or the Architect's Consultants, and shall, to the extent possible, conduct such meetings via teleconferencing with the Architect. Owner's retention and use of Separate Consultants shall not in any way diminish or supersede Architect's responsibilities under this Agreement. The Architect, however, will not be responsible for any errors and omissions contained in the Owner's separate Consultants instruments of service.

1.3 Consultant's Personnel.

1.3.1 Architect's Project Representative.

The Architect's Project Representative, as approved by Owner, is designated in **Exhibit B**. Architect's Representative shall: (1) be actively involved throughout all phases of engineering and design, and construction of the Project; (2) maintain design oversight of the Project at all times; (3) have full authority to represent and act on behalf of the Architect for all purposes under this Agreement; (4) supervise and direct the Services using their professional skill and attention; (5) be responsible for the means, methods, techniques, sequences, and procedures used for the Services of the Architect and its Consultants; (6) coordinate all portions of the Services; and (7) act as the principal contact with the Owner and all contractors, Consultants, engineers, and inspectors on the Project. Notwithstanding the foregoing, Architect's project representative shall not be personally liable for, nor be a guarantor of, the performance of Architect's obligations hereunder.

1.3.2 Architect's Key Personnel. In addition to its designated Representative, Architect represents to Owner that certain additional Key Personnel, approved by Owner and designated in **Exhibit B** will perform Services required by this Agreement.

1.3.3 Architect's Consultants. Architect has the option, unless Owner reasonably objects in writing, to employ, at its expense, Consultants qualified and licensed to render Services in connection with the Project and to delegate duties to them without relieving Architect from responsibility under this Agreement. Architect shall utilize the Consultants accepted by Owner and designated in **Exhibit B** ("Consultants") to perform Services. Whenever it is necessary for the Architect to employ additional Consultants or substitute designated Consultants, that action shall require the prior written acceptance of Owner. Owner will not unreasonably withhold acceptance. The Architect shall enter into written agreements with the Consultants that require each Consultant to acknowledge and agree that all Services must be performed in accordance with Architect's obligations under this Agreement and to provide a breakdown and back-up for all Services and costs. Owner shall have the right, but not the obligation, to review and accept the form and substance of Architect's contracts with Consultants. All primary Consultants (Mechanical, Electrical, Plumbing, Structural, Civil, and others) hired by Architect shall meet all of the insurance requirements set forth in this Agreement and their contracts shall not contain any waiver or limitation of liability unless approved by Owner in writing. A copy of each written contract between the Architect and each Consultant shall be provided to the Owner only if requested in writing.

1.3.4 Changes in Architect's Designated Representative, Key Personnel and Consultants. The Services provided by the Architect are deemed to be professional services. Architect understands and acknowledges that its selection by Owner was, in part, based on the Architect's Representative, Key Personnel, and Consultants identified in **Exhibit B**. The Architect shall not make changes to its Representative, Key Personnel and/or Consultants or reduce their responsibilities for this Project without the prior written approval of the Owner. Should circumstances beyond the control of the Architect result in changes to any person or entity on this team, the Architect shall submit the credentials of the Architect's proposed replacement

for the Owner's approval, which approval shall not be unreasonably withheld. If Owner determines, in its sole but reasonable discretion, that the performance of any person or entity employed by Architect is unsatisfactory, then at the written request of Owner, Architect shall remove, reassign or replace such individual or entity and such individual or entity shall not be reemployed on the Project without the prior written approval of Owner. The Owner shall make compensation to the Architect for any adjustments in fee necessary to replace outside Consultants identified in Exhibit B.

1.3.5 Qualifications and Licenses. All design, professional, and engineering Services furnished by or on behalf of the Architect shall be performed by persons qualified to perform the Services assigned to them and shall be under the responsible charge of the Architect licensed to practice their respective trades or professions, where required by law, and who shall assume professional responsibility for all programming, design, calculations, and related construction documents, hereinafter defined, prepared or furnished by them. Architect's Representative, Key Personnel, and Consultants shall be experienced in projects of similar nature and complexity to the subject Project and shall be approved by Owner prior to their assignment to the Project. Architect shall provide current information on the professional background of its Representative, Key Personnel, and Consultants upon request by Owner.

1.3.6 Suitability of Work and Cooperation.

1.3.6.1 Architect shall furnish Services in accordance with an agreed upon milestone schedule and ensure all Services are completed in accordance with sound professional principles by licensed professionals where applicable. Architect shall, upon request of Owner, provide all calculations, data, charts, and other information of any type whatsoever which support the Services performed pursuant to this Agreement. Architect may not assert as a basis for refusing to provide such information that it is proprietary.

1.3.6.2 Architect is aware and agrees that Owner has the right to submit the Project Documents, hereinafter defined, of Architect and its Consultants to independent reviewers. Architect agrees to fully cooperate with such reviewers if Owner determines that such peer reviews are appropriate. Architect's obligation to cooperate shall include the obligation to respond in an objective professional manner to requests for information, and if expressly requested by the Owner to enter into a dialogue with the reviewer regarding the reviewer's comments.

1.3.6.3 Architect realizes that Owner shall have ultimate control over decisions on matters relating to aesthetic effect and any other matters affecting the cost and timing of the Project, as well as matters related to planning for end users of the completed Project. Architect agrees to work with Owner to implement all of Owner's decisions on these matters. The Architect will coordinate its work and be responsive to Owner's decisions on matters relating to aesthetic effect, cost, and timing of the Project. In the event agreement cannot be reached between Owner and Architect, Owner and Architect agree to immediately proceed to resolve any disagreement pursuant to Article 14. Architect shall respond only to those comments that are related to the agreed scope of services.

ARTICLE 2 TIME FOR PERFORMANCE

2.1 Commencement Date and Completion Date.

Time is of the essence for performance of the Services required by this Agreement. Architect's Basic Services will commence upon Owner's issuance of an initial Notice to Proceed ("Commencement Date"). Key milestone dates are cited in Exhibit A, Section I.A. The completion date for the issuance of Construction Documents for bidding purposes shall not be exceeded without the prior written approval of Owner. The Owner agrees to review all required Architectural design submissions in a timely fashion as subsequently agreed to between Owner and Architect based on the completion of a milestone schedule for Architect's Basic Services. The time for performance of services by the Architect will be extended on a day-for-day basis for all days in excess of the agreed to review period(s). The completion date will be adjusted as a result of the additional days taken by the Owner to review such submissions.

2.2 Schedule.

Within ten (10) calendar days after the Owner issues the initial Notice to Proceed, the Architect and Owner shall collaboratively prepare a milestone schedule (hereinafter "Schedule") of performance activities for Architect's Services, including those of its Architects and required City reviews and approvals for each design phase. This Schedule shall indicate the date by which the Architect agrees to complete the performance of Basic Services, date of (or, where applicable, periods of elapsed time allowed for) Owner approvals and anticipated approval periods required for public authorities having jurisdiction over the Project, date for the completion of Construction Documents for bidding purposes, and date for completion of Close-Out activities. The Schedule shall be consistent with the contract time limits set forth herein. Once accepted by Owner, the Schedule will become part of this Agreement and the Architect will be bound by that Schedule and will not deviate from it without prior written authorization by the Owner. Whether or not deviations from the Schedule have been authorized by the Owner, the Architect shall update the Schedule as necessary to reflect Owner approved changes or unavoidable deviations, indicating probable impacts of those deviations on the performance of the Architect's Services and the Project. Nothing in this Agreement shall be construed as a waiver of Owner's right to obtain compliance by the Architect with the accepted or modified Schedule. Architect will not be responsible for any delays caused by Owner or those acting under Owner's control. To the extent that such delays are caused by Owner or those acting under Owner's control, Owner recognizes that the Schedule will be extended as a result of such Owner controlled delays.

2.3 Excusable Delay.

Any delays in Architect's Services caused by the following shall be added to the time for completion of any obligations of the Architect: (1) the actions of Owner or its employees; (2) the actions of those in direct contractual relationship with the Owner; (3) the actions of any governmental agency having jurisdiction over the Project; (4) the actions of any parties not within the reasonable control of the Architect; and (5) any act of God or other unforeseen occurrence not due to any fault or negligence on the part of

Architect (hereinafter "Excusable Delay"). Neither the Owner nor the Architect shall be liable for costs or damages, liquidated or otherwise, to the other on account of such Excusable Delays. The Architect shall, within twenty-one (21) calendar days of the beginning of any Excusable Delay (unless Owner grants in writing a further period of time to file such notice prior to the date of final payment under the Agreement), notify the Owner in writing of the delay. Owner will then ascertain the facts and the extent of the delay, and grant an extension to the date for Basic Services when, in its sole judgment, the circumstances justify such an extension. Extensions of time shall apply only to that portion of Basic Services affected by the Excusable Delay and shall not apply to other portions of the Services not so affected. The sole remedy of Architect for extensions of time shall be an extension of the Completion Date, or other interim schedule deadline at no additional cost to the Owner. If Additional Services are required or additional costs are incurred as a result of an Excusable Delay, the Parties shall mutually agree thereto pursuant to the Additional Services provision of this Agreement.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

3.1 Enumeration of Services.

The Architect's Scope of Basic Services is enumerated in **Exhibit A**, Scope of Services.

3.2 Standard of Care.

Architect hereby represents that it has the professional experience and skill to perform the Services required to be performed hereunder; that it shall comply with applicable federal, state and local laws, including but not limited to all professional registration (both corporate and individual) for all required basic disciplines; that it shall perform the Services in accordance with generally accepted professional standards and in an expeditious and economical manner; that it has sufficient capital assets and is adequately financed to meet all financial obligations it may be required to incur hereunder and will, if requested by Owner, submit documentation of such assets and finances.

3.2.1 If, at any time during the performance of its Services or during the maximum period permitted by applicable law after completion of same, it is discovered that Architect or any of its officers, directors, agents, subcontractors, employees, or Consultants has committed any negligent act, error or omission, which has caused or will otherwise cause unnecessary additional expense to Owner, then Architect shall, at Owner's request, promptly make all necessary corrections.

3.2.2 Owner recognizes that no set of plans and/or specifications is perfect, that Change Orders can be anticipated, and agrees to act reasonably in its review of any Change Orders submitted on the Work. Owner shall monitor the Project for any errors and omissions that are reasonably attributable to Architect and/or its Consultants. In the event the Architect and/or any of its Consultants fails to perform its services in a manner consistent with that degree of care and skill ordinarily exercised by members of

the same profession currently practicing under similar circumstances and the accumulative costs proximately caused by the resulting errors and/or omissions exceed an amount that Owner reasonably believes is unjustified, then Owner may, at its reasonable discretion, file a claim against the Architect for reimbursement of such costs.

3.2.3 For omissions, Architect may be liable for the difference in cost over and above the cost of the Work if originally included and performed. Owner recognizes that it is only the "delta cost" that Architect may be responsible for, i.e., the difference in cost between the original Work if properly included and performed, and the Work ultimately included as a result of any omission. For errors, Architect may be liable for the cost of the Work necessary to correct the error. Correction of errors and omissions shall include, but not be limited to, additional architectural and engineering services, design documentation, travel, demolition, removal, relocation, manufacture, fabrication, construction, inspections, testing, and installation proximately caused by said error and/or omissions.

To the extent that the accumulative cost of such errors and/or omissions exceed a threshold of five percent (5.00%) of the Total Projected Construction Cost of \$2,000,000 identified in Article 6.2.1 and in **Exhibit A**, the Owner, at its sole discretion, may pursue reimbursement from Architect of such costs in excess of this threshold.

3.3 Laws and Regulations.

3.3.1 Drawings and Specifications. Architect shall cause all graphic and pictorial documents showing the design, location, and dimension of the work ("Drawings") and written requirements for materials, equipment, systems, standards, and workmanship for construction of the work ("Specifications") to conform to applicable requirements of federal, state and local laws, rules and regulations, in effect as of the time the Drawings and Specifications are prepared or revised during the latest phase of the Services described herein. Architect has an obligation to monitor changes to applicable laws, rules, and regulations and to promptly advise Owner of any changes that potentially may impact the Project. Any significant revisions made necessary by legislative enactment of changes in such laws, rules and regulations after this time shall be compensated as Additional Services. Architect shall cause the necessary copies of such Drawings and Specifications to be filed with any governmental bodies with approval jurisdiction over the Project.

3.3.2 Americans with Disabilities Act. Architect will use its professional efforts to interpret all applicable federal, state and local laws, rules and regulations with respect to access, including those of the Americans with Disabilities Act of 1990 ("ADA") and as contained in the California Code of Regulations. The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. Owner acknowledges that the requirements of the ADA will be subject to various and possibly contradictory interpretations. Architect, therefore, will use their reasonable professional efforts to interpret applicable ADA requirements and other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the project. Architect shall inform

Owner of its interpretations of inconsistencies of which it is aware or reasonably should be aware between federal and state accessibility laws, rules and regulations, as well as any other issues which are subject to conflicting interpretations of the law. Unless Architect brings such inconsistencies and conflicting interpretations to the attention of the Owner and requests Owner's direction on how to proceed, the Architect's interpretation of such inconsistencies and conflicting interpretations shall be the sole responsibility and liability of Architect, and the Architect shall correct all Drawings, Specifications and other documents prepared for the Project at no additional cost if Architect's interpretations are shown to be incorrect.

3.3.3 Permits, Approvals and Authorizations. Architect shall support Owner with a list of applicable permits, approvals and/or other authorizations required for the Project from federal, state or local governmental bodies with approval jurisdiction over the Project. Architect shall then assist the Owner in its efforts to obtain all such permits, approvals and other authorizations. The costs of such permits, approvals and other authorizations shall be paid by the Owner. Notwithstanding the foregoing, Owner shall be responsible for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

ARTICLE 4 ADDITIONAL SERVICES

4.1 Definition.

The Owner, without invalidating this Agreement, may make changes, additions, and deletions in the Scope of Services or otherwise amend this Agreement. All changes in the Services shall be performed under applicable provisions of the Agreement. Except in an emergency endangering life or property, no Additional Services or change in Scope of Services shall be made except pursuant to a written Amendment to this Agreement and no claim for additional compensation or an extension of the Completion Date shall be valid unless so ordered by Owner. At Owner's request, Architect may be asked to perform services not otherwise included in this Agreement, not included within the Basic Services enumerated herein and in **Exhibit A**, and/or not customarily furnished in accordance with generally accepted architectural practice. As used herein, "Additional Services" shall mean: (1) any services determined by Owner to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary for the Architect to perform at the execution of this Agreement; or (2) any services listed as Additional Services or Excluded Services in **Exhibit A** attached hereto. Architect shall not perform, nor be compensated for, Additional Services without prior written authorization from Owner and without an agreement between the Owner and Architect as to the compensation to be paid for such Additional Services. Owner shall pay Architect for completion of any approved Additional Services, pursuant to the compensation provisions herein, so long as such services are not made necessary through the fault of Architect. Such Additional Services shall not include any redesign or revisions to drawings, specifications, and/or other documents when such revisions are necessary in order to bring such documents into compliance with applicable laws, rules, regulations or codes of which Architect was aware of or should have been aware of pursuant to the laws and regulations provision of this Agreement above. In the event of a redesign or revisions necessitated due to City Officials re-interpreting code(s) after the building

permit has been issued, Architect may request additional services following the procedures outlined in Article 4.2.2.

4.2 Owner's Authorization of Additional Services.

4.2.1 Changes in the services that involve no extra cost, may be approved, authorized, and ordered by the Owner's Representative designated in **Exhibit B**. No other change shall be made nor Additional Services performed except by Amendment to the Agreement and: (1) with prior written approval from the Owner's Project Manager; and (2) the change does not (a) exceed 10% of the original Cost of Services or \$50,000, whichever is less; or (b) cause the total compensation to Architect, including all Additional Services and Reimbursable Expenses, to exceed the budgetary appropriation made by resolution of the Owner's City Council. If the Additional Services exceed any of the preceding amounts, the Owner's City Council must approve the Amendment.

4.2.2 Owner may issue a request, in writing, to the Architect, describing a proposed addition, deletion or change to the Service and requesting the Architect to submit a pricing proposal, in a format acceptable to Owner, within fifteen (15) calendar days after Owner's issuance of the request, or such time as may be reasonably necessary to ensure the extent of the scope change is both clear and can be reasonably priced and the time extension, if any, be reasonably identified. The Architect's pricing proposal shall include an analysis of impacts to cost and time, if any, to perform the addition, deletion or change in Services, as applicable, including the effects and impacts, if any, on unchanged Services. The Architect's pricing proposal shall provide sufficient detail and necessary documentation support in a format reasonably acceptable to the Owner for Owner's review and approval. If Architect fails to submit a price proposal within such time period, it shall be reasonably presumed that the change described will not result in a change to Architect's compensation or Completion Date and the change shall be performed by Architect without cost adjustment. Owner's written request for a pricing proposal does not authorize the Architect to commence performance of the described services. If the Parties reach agreement on the cost of pricing such change(s), an Amendment to the Agreement will be issued in the form attached hereto as **Exhibit D-1**.

4.3 Architect Initiated Request for Additional Services.

4.3.1 If the Architect alleges that instructions issued after the effective date of the Agreement will result in an increase to the compensation or completion of the Architect's Services or the Architect otherwise becomes aware of the need for or desirability of additional services, a request for additional services may be submitted to the Owner in writing, in a format acceptable to Owner, and must specify the reasons for such change, including relevant circumstances and impacts on the Schedule. Architect shall submit a pricing proposal concurrently with the request for additional services. Architect may request additional compensation and/or time but not for instances that occurred more than thirty (30) calendar days prior to the request for additional services. Architect's failure to initiate a request for additional services within such period shall be deemed a waiver of the right to adjustment of the compensation or time for completion for the alleged change. Any request for additional services that is approved by Owner

will be incorporated in an Amendment. If the request for additional services is denied but the Architect believes that it does have merit, the Architect may submit a claim in accordance with the procedures set forth herein.

ARTICLE 5 OWNER'S AUTHORITY AND RESPONSIBILITIES

5.1 Designated Representative.

The Owner's Representative for this Project, who shall have the power to act on behalf of the Owner for all purposes under this Agreement except with respect to authorization of Additional Services, is designated in **Exhibit B**.

5.2 Project Requirements.

Prior to commencement of Architect's design services, Owner shall provide an affirmative statement setting forth the design objectives, constraints and criteria for the Project, including space requirements and relationships, flexibility and expandability, special equipment and systems, and site requirements.

Prior to commencement of Architect's design services, Owner shall set forth and approve a specific construction budget. The budget for the project shall not be significantly increased or decreased, nor shall contingencies be included therein without Architect's agreement to a corresponding change in the scope and quality.

5.3 Site Information.

As required by the City, the Architect's design services will provide the Owner with such current documents as a topographical survey affecting the subject Project, geotechnical surveys, utility search and plans reports and hazardous material reports, hydraulic analysis determining the flow rates from the County for the proposed drainage channel restoration and will perform hydraulic analysis of the drainage channel as it pertains to only those structures or systems that will be demolished as part of this Project, and a current Preliminary Title Report (if such title report is deemed necessary) to describe physical characteristics, legal limitations, and utility locations for the Project site.

Additionally, regulatory permits will be obtained including Section 404 Nationwide Permit, Section 401 Water Quality Certification, and Section 1603 Department of Fish and Game agreement. Also, the United States Army Corps of Engineers and the Los Angeles County Flood Control jurisdictions may need to be consulted with possible regulatory permits required from their respective agencies as well.

Owner shall receive the results of all tests, inspections, and reports regarding the Project in its possession and shall provide Architect with written notice of any fault or defect in the Project (including errors, omissions or inconsistencies in the Instruments of Service) of which Owner becomes aware.

ARTICLE 6 CONSTRUCTION COST

6.1 Definition.

6.1.1 The construction cost shall be the total cost or, to the extent the Project is not completed, the estimated cost to the Owner of all construction related elements of the Project designed or specified by the Architect.

6.1.2 The construction cost shall include the cost at current and local market rates of labor and materials furnished by the Owner and equipment and systems designed, specified, selected or specially provided for by the Architect, including costs for management and/or supervision of construction or installation provided by the general contractor, plus a reasonable allowance for general conditions and general requirements, overhead, profit, bonds, and insurance. In addition, a reasonable allowance for construction and project contingencies shall be included for market conditions at the time of bidding and for potential changes in the Work.

6.1.3 Construction cost does not include the compensation of the Architect and the Architect's Consultants, the costs for land, rights-of-way, financing, Owner related project and/or construction management, and other soft costs that are generally the responsibility of the Owner as provided in Article 5.

6.2 Responsibility for Construction Cost.

6.2.1 Architect is responsible for the development of a construction budget for the Project. . Architect has a fiduciary obligation to design the Project in accordance with the Owner's construction cost which shall be adjusted in a manner consistent with the current published Construction Index of Southern California (published at the time this Agreement is executed) allowing for a reasonable cost escalation and the Project completion schedule.

ARTICLE 7 USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

7.1 Project Documents.

The drawings, specifications, sketches, calculations, estimates and other documents prepared pursuant to this Agreement and provided by the architect to the Owner in a reproducible and mutually acceptable computer media format, ("Project Documents") are Instruments of Service. Although the official copyright in all Project Documents shall remain with Architect and applicable Consultants, the Project Documents shall be the sole property of Owner and shall be delivered to Owner at the 30%, 60% and 90% completion stages for the Construction Documents, the 100% approved for construction bid set, and at Project completion. Architect shall keep such documents and materials on file and available for audit by the Owner for at least three (3) years after the Notice of Completion for the Project has been recorded with the County or termination of this Agreement, whichever is later. Architect may make duplicate copies of such materials and documents for its files or for such other purposes as may be authorized in writing by the Owner.

7.2 License.

This Agreement creates a non-exclusive and perpetual license for Owner to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein. Architect shall require any and all subcontractors and Consultants to agree in writing that Owner is granted a non-exclusive and perpetual license for the work product of such subcontractors or Consultants performed pursuant to this Agreement. On execution of this Agreement, the Architect grants to the Owner a non-exclusive license to reproduce the Architect's instruments of service solely for purposes of construction, using and maintaining the Project provided that Owner shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect and Architect's Consultants shall be deemed the Authors and Owners of the respective instruments of service and shall retain all common law, statutory and other reserved rights, including copyrights.

7.3 Re-Use of Project Documents.

7.3.1 In the event this Agreement is terminated prior to completion of the Project, provided Owner has complied with all obligations, including prompt payment of all sums when due, under this Agreement, the foregoing license shall continue in force and effect, permitting Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections, or additions to the Instruments of Service solely for the purposes of constructing, repairing, renovating, modernizing, replacing, reconstructing, or expanding the Project.

7.3.2 In authorizing such similarly credentialed professionals to utilize the Instruments of Service, Owner shall direct each such professional in writing that such professional shall not rely on the information contained in the Instruments of Service, but shall make independent investigations to ascertain the validity of such information

7.3.3 The Owner shall protect, defend, indemnify and hold Architect and Architect's Consultants harmless from claims and liability for injury, damage or death resulting from re-use of the Instruments of Services.

7.3.4 Owner shall not provide the Construction Documents to any third party without the full disclaimer of responsibility by the Architect.

7.3.5 Architect's product of service shall not be used to construct any other project.

7.3.6 Reproduced copies or electronic copies of the Construction Documents provided by the Architect will delete all professional seals and signatures except in those instances where records as may be required by the City necessitate the inclusion of such seals and signatures.

ARTICLE 8 INDEMNITY

8.1 Architect's Obligation.

Architect shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the City) and hold harmless City, and its employees and officials, ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, but only to the extent determined to have been caused by negligence, recklessness, or willful misconduct of Architect, its officers, employees, agents, Consultants or subcontractors in performance of professional services under this Agreement.

The Architect's obligations under this Section of the Agreement shall survive the termination of the Agreement and the completion of the performance of the work required by the Agreement.

8.2 City's Obligation.

City shall, to the fullest extent permitted by law, indemnify, defend and hold harmless Architect, and its employees and officials, ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, but only to the extent determined to have been caused by negligence, recklessness, or willful misconduct of City, its officers, employees, or agents, in connection with the performance of this Agreement.

8.3 Exceptions.

The City agrees to defend, indemnify and hold harmless to the maximum extent permitted by law, the Architect and all of their respective officers, employees, agents, representatives, and their successors and assigns ("Indemnitees") from design issues related to previous design work and documents, if any, provided to Architect and its Consultants prior to the execution of this Agreement.

ARTICLE 9 INSURANCE

9.1 General.

9.1.1 Prior to commencing any services hereunder, Architect and its Consultants shall obtain and maintain policies of insurance of the types and in the amounts set forth below, for the duration of this Agreement or such further period as specified herein, providing coverage for claims arising from or related to Services to be performed under this Agreement. The Architect's Consultants may request reduction of the amount of coverage for any insurance. Any request for reduction of the amount of insurance coverage shall require the approval of the City Attorney's Office and the Risk Manager.

9.1.2 The policies shall state that they afford primary coverage. Architect shall: (1) include all Consultants as insureds under its own policies; or (2) shall furnish separate insurance for each Consultant; or (3) provide evidence that the Consultant has, in force, all insurance required by this section.

9.1.3 Insurance shall be placed with insurers authorized to transact business (i.e. admitted) in the State of California so as to provide access to the California Guaranty Association and other state regulation or have a "Best's Guide" rating of no less than B+ and having been approved as to financial condition in writing by Owner prior to execution of this Agreement.

9.1.4 Prior to commencement of performance, Architect shall furnish Owner with a Certificate of Insurance for each policy. Each certificate is to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificate(s) must be in a form approved by Owner. Owner may require complete, certified copies of any or all policies at any time. All liability insurance deductibles must be identified in the Certificates of Insurance provided to the Owner. The deductibles for all insurance policies required herein shall be considered a form of self-insurance.

9.1.5 Each insurance policy included in this clause shall be endorsed to state that coverage shall not be cancelled except after thirty (30) calendar days prior written notice to Owner.

9.1.6 Failure to maintain required insurance at all times shall constitute a default and material breach of this Agreement. In such event, Architect shall immediately notify Owner and cease all performance under this Agreement until further directed by the Owner. In the absence of satisfactory insurance coverage, Owner may, at its option: (a) procure insurance with collection rights for premiums, attorney's fees and costs against Architect by way of set-off or recoupment from sums due Architect; (b) immediately terminate this Agreement; or (c) self insure the risk, with all damages and costs incurred, by judgment, settlement or otherwise, including attorney's fees and costs, being collectible from Architect, by way of set-off or recoupment from any sums due Architect.

9.2 Professional Liability.

Architect shall obtain and maintain, for the duration of this Agreement and for a period of three (3) years following completion of construction of the Project, to the extent commercially available professional liability (errors and omissions) standard practice policy such coverage shall be in the minimum amount of **\$1,000,000** per claim and in the annual aggregate of **\$2,000,000** and a deductible not to exceed \$500,000. It is understood that the Architect, and not the Owner, will be responsible for payment of this deductible in the event of a claim.

9.3 Automobile.

Automobile Liability with minimum limits of at least **\$100,000/300,000/50,000** for hired and non-owned liability coverage if written on a Commercial automobile liability form.

9.4 General Liability.

Comprehensive General Liability with minimum limits of at least **\$2,000,000** combined single limits with coverage on an occurrence basis. Premises/Operations and Personal Injury coverage is required. The City, the City Council, their officers, employees, and agents must be endorsed on the policy as additional insureds as respects liability arising out of the Architect's performance of this Agreement. The endorsement shall require the insurance company to provide the City a minimum of thirty (30) calendar days notice of cancellation of the policy and ten (10) calendar days notice for non-payment of premium. All endorsements to the insurance policy must be approved as to form by the City Attorney's Office.

9.5 Worker's Compensation.

Architect shall comply with the applicable sections of the California Labor Code concerning workers' compensation for injuries on the job. Compliance is accomplished in one of the following manners:

9.5.1 Provide copy of permissive self-insurance certificate approved by the State of California; or

9.5.2 Secure and maintain in force a policy of workers' compensation insurance with statutory limits and Employer's Liability Insurance with a minimal limit of **\$1,000,000** per accident, or

9.5.3 Provide a "waiver" form certifying that no employees subject to the Labor Code's Workers' Compensation provision will be used in performance of this Agreement.

9.5.4 If Architect provides coverage under either 9.5.1 or 9.5.2, Architect shall provide a waiver of subrogation regarding any claims paid under the policy.

9.6 Architect's Consultants' Insurance.

Architect warrants that it shall require all its Consultants to name both the Architect and the Owner as additional insureds on endorsements to the Consultants' insurance policies. Upon request, the Architect shall furnish the Owner with these Consultant insurance certificates and endorsements.

ARTICLE 10 PAYMENTS TO THE ARCHITECT

10.1 Payments on Account of Basic Services.

10.1.1 Owner shall make payments on a monthly basis for Services properly completed in accordance with the Schedule for Basic Compensation provided in Article 11. In order to receive payment, Architect shall present to Owner an itemized statement which indicates Services performed by Architect and its Consultants, percentage of Services completed, method for computing the amount payable, and the amount to be paid. The statement shall describe the amount of Services provided since the initial Commencement Date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement, as well as those expenses for which reimbursement is requested for that statement period and other information reasonably requested by Owner. If the Basis of Payment is a stipulated sum, payment shall be made on the percentage of Services completed. If the Basis of Compensation is Hourly Billing Rates, the statement shall identify the individual performing Services, a brief description of the services, the amount of time expended (in a minimum increment of 0.10 hour) and the hourly rate for such services. No deductions shall be made from Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the work other than those for which Architect has been adjudged in a court of law to be liable. Payment shall be made for Services performed provided, however, that the amount paid to Architect shall never exceed the amounts authorized by the Schedule for Basic Compensation located in Article 11.1 or any not-to-exceed amount for additional services as provided in Article 11.2. Owner shall, within thirty (30) calendar days of receiving Architect's itemized statement, pay all approved charges therein.

10.1.2 Reimbursable Expenses. Architect shall, at its sole cost and expense, furnish all necessary and incidental labor, materials, supplies, facilities, equipment, and travel which may be required for furnishing Services pursuant to this Agreement within the Lump Sum Amount identified in Article 11. Architect shall be reimbursed for the expenses identified as Reimbursable in **Exhibit C** which are reasonably and necessarily incurred by Architect in the interest of the Project but in no event shall such Reimbursable Expenses exceed thirty thousand dollars (\$30,000) without prior written approval by Owner in accordance with Article 4 herein. Architect shall obtain Owner's prior written approval for reimbursement of expedited delivery charges not due to delay by Architect and extraordinary or out-of-town travel expenses.

10.2 Payments on Account of Additional Services.

10.2.1 Procedures for payments for Additional Services may be made based on percentage completion of a Lump Sum Amount or according to hourly rates provided that, in any event, Additional Services shall be separately itemized on Architect's statement. Architect expressly waives any right to payment for any Additional Services rendered if Architect does not give written notice of its claim that the services are Additional Services prior to rendering such services and if such services are not billed as Additional Services within ninety (90) calendar days following their initiation. The method for computing the amount of Additional Services is described in Article 11.3.

10.2.2 Hourly Rates for compensation in **Exhibit C** include the direct salaries and wages of the Architect's personnel and its Consultants engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, including, but not limited to, employment taxes and other statutory employee benefits, insuring sick leave, holidays, vacations and employee retirement plans, allocable to this Project as well as overhead and profit. Architect's hourly rates shall include all professional time and all clerical, administrative, overhead, insurance, reproduction, telephone, and transportation expenses. Architect's hourly rates, including the Architect's Consultant rates accepted by the City, shall remain constant throughout the duration of the Project, including in-house staff that may be promoted.

10.3 Payments Withheld.

To the extent the Owner has any rights to withhold disputed amounts on payment pursuant to Civil Code § 3320, the Owner agrees to abide by all provisions of Civil Code §3320, and withhold only payments authorized therein. The Owner further agrees to be governed by all provisions of §3320.

ARTICLE 11 COMPENSATION FOR SERVICES

11.1 Compensation for Additional Services.

For Additional Services of the Architect and its Consultants, compensation shall be computed on the basis of a lump sum amount or on hourly rates and Reimbursable Expenses enumerated in **Exhibit C**, subject to mutual agreement on a not-to-exceed amount for the Additional Services.

11.2 Progress Payments.

Progress payments shall be made monthly based upon the actual cost incurred to date for Services accepted by Owner, less the sum of previous payments paid. Architect shall submit detailed statements to Owner on the first day of each month and Owner shall pay each approved invoice within thirty (30) calendar days after receipt of the Architect's itemized statement. Statements shall refer to this Agreement by its Purchase Order indicated at the top of the first page hereof, shall display the original Cost of Services and shall include complete documentation of all charges. Authorized Reimbursable Expenses shall be indicated separately and shall be invoiced at their actual cost plus no more than ten percent (10%) for Architect's reimbursable expenses, together with original receipts or other documentation to substantiate expenditures. No mark-up is allowed on the Architect's in-house reimbursable expenses or on any reimbursable expenses incurred by its Consultants. Authorized Charges for Additional Services, if any, shall be indicated separately from charges for Basic Services. All statements shall be addressed to:

**City of Burbank
Parks, Recreation & Community Services Department
Attention: Janice Bartolo, Deputy Director – Park Services
150 North Third Street
Burbank, CA 91502**

11.3 Final Payment.

Final Payment to the Architect shall be made within sixty (60) calendar days after Architect's written demand provided Architect has completed the Services described by the Agreement, and has delivered to Owner the updated Construction Documents, a Conditional Waiver and Release Upon Final Payment, a Declaration to Procure Payment and Release of Contract Rights, and any other Certificates and documentation reasonably required by Owner.

ARTICLE 12 OTHER CONDITIONS OR SERVICES

12.1 Independent Contractor.

12.1.1 Owner retains Architect on an independent contractor basis and not as an agent or employee of Owner. Architect has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons employed by Architect in the performance of the Services hereunder. Architect shall be solely responsible for, and shall indemnify, defend and save Owner harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, and regulations.

12.1.2 Architect acknowledges that any Consultants, subcontractors, agents or employees employed by Architect shall not, under any circumstances, be considered employees of the Owner, and that they shall not be entitled to any of the benefits or rights afforded employees of Owner, including, but not limited to, sick leave, vacation leave, holiday pay, benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

12.2 Assignment.

The Owner and Architect, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The Architect shall not assign this Agreement without the Owner's written consent. The Owner may freely assign its rights hereunder, without limitation, to a separate entity and Architect agrees, upon such entity's request, to continue and complete performance of the services upon payment of any undisputed outstanding amounts due Architect for services performed provided, however, that Owner shall not be relieved of its obligations under this Agreement and that the assignee shall agree in writing to perform all of the obligations of Owner hereunder. Any entity that shall succeed to the rights of Owner shall be entitled to enforce the rights of Owner hereunder. If requested by such entity, Architect will execute a separate letter or other agreement with such entity, further evidencing Architect's commitment to continue performance of this Agreement.

12.3 Correction of Work.

Architect shall promptly correct any defective, inaccurate or incomplete professional services and resulting deliverables, goods, and other services required by this Agreement, without additional cost to the Owner. The performance or acceptance of services furnished by Architect shall not relieve the Architect from the obligation to correct subsequently discovered defective, inaccurate or incomplete tasks.

12.4 No Waiver or Estoppel.

The Owner's waiver of any term, condition, breach or default of this Agreement shall not be considered to be a waiver of any other term, condition, default or breach. Owner shall not be precluded or estopped by any return, certificate, or approval made under any provisions of this Agreement before or after final completion of the Project and final payment to Architect, from showing that any such return, certificate or approval is untrue, incorrect or improperly made or from demanding recovery from Architect such damages as Owner may sustain as a result of Architect's fault.

12.5 Interpretation.

12.5.1 This Agreement shall be governed by the laws of the State of California.

12.5.2 If any provision in this Agreement is held by any court of competent jurisdiction to be invalid, illegal, void, or unenforceable, such portion shall be deemed severed from this Agreement, and the remaining provisions shall nevertheless continue in full force and effect as fully as though such invalid, illegal, or unenforceable portion had never been part of this Agreement.

12.5.3 Each and every provision and clause required by law to be inserted in the Contract Documents shall be deemed to be inserted herein.

12.6 Duplicate Originals.

There shall be three (3) fully signed sets of this Agreement, each of which shall be deemed an original.

12.7 Maintenance and Inspection of Records

Upon reasonable advanced notice, the Owner, or its authorized auditors or representatives, shall have access to and the right to audit and reproduce any of the records to the extent the Owner deems necessary to insure it is paying only the amounts to which Architect is properly entitled under the Agreement or for other purposes relating to the Agreement.

12.7.1 The Architect shall maintain and preserve all such records for a period of at least three (3) years after termination of the Agreement.

12.7.2 In the event the Owner desires to perform any audit of the Architect's ledgers for this Project at Owner's expense, the Architect will cooperate with such audit by making all its records available.

12.8 Conflict of Interest.

Architect hereby represents, warrants, and certifies that no member, officer or employee of the Architect is a director, officer or employee of Owner, or a member of any of its boards, commissions or committees except to the extent permitted by law.

12.9 Notices.

12.9.1 Any notice or demand to be given by one party to the other shall be given in writing and by personal delivery or prepaid first-class, registered or certified mail, addressed as follows:

If to the Owner: **City Clerk
City of Burbank
275 E. Olive Avenue
P.O. Box 6459
Burbank, CA 91510-6459**

**cc: Parks, Recreation & Community Services
Department
Attention: Janice Bartolo, Deputy Director –
Park Services
150 North Third Street
Burbank, CA 91502**

If to the Architect: **AHBE Landscape Architects
Calvin Abe
8729 Washington Boulevard
Culver City, CA 90231**

Notice simply to the City or any other City department is not adequate notice.

12.9.2 Any such notice shall be deemed to have been given upon delivery, if personally delivered, or, if mailed, via Certified Mail, upon receipt or upon expiration of five (5) calendar days from the date of posting, whichever is earlier. Either party may change the address at which it desires to receive notice upon giving written notice of such request to the other party.

12.10 Publicity and Confidentiality of Material.

12.10.1 The Architect and its agents and employees shall not engage in any communication or correspondence with persons not directly involved in the construction of the Project, concerning any aspect of the construction of the Project, without the express written consent of Owner. All communications to the media, or in response to

inquiries made by private citizens, shall be issued solely through the Owner. Upon completion of the Project, the Owner will not unreasonably withhold its approval of Architect communicating with media and others relative to this Project.

12.10.2 Architect may, during the course of providing its Services hereunder or in relation to this Agreement, have access to and acquire knowledge regarding materials, data, systems and other information of or with respect to Owner which may not be accessible or known to the general public ("Confidential Information"). Confidential Information that is specific as to techniques, equipment, processes, products, concepts or designs, etc. shall not be deemed to be within the knowledge of the general public merely because it is embraced by general disclosures in the public domain. Any knowledge acquired by Architect from such Confidential Information or otherwise through its engagement hereunder shall not be used, published or divulged by Architect, to any other person, firm or corporation, or used in any advertising or promotion regarding Architect or its services, or in any other manner or connection whatsoever without first having obtained the written permission of Owner, which permission Owner may withhold in its sole discretion. Architect specifically agrees that the foregoing confidentiality obligation applies to, but is not limited to, any information disclosed to Architect in any document provided to Architect by Owner which may not be accessible or known to the general public, including but not limited to, a Request for Proposal, Request for Estimate, Request for Quotation and Invitation to Bid. The provisions of this Article shall survive the expiration or earlier termination of this Agreement.

Architect's duty to refrain from disclosing information designated as "Confidential Information" shall not apply if withholding such information would violate the law, create the risk of significant harm to the public or prevent Architect from establishing a claim or defense in an adjudicatory proceeding. In the event Architect determines that disclosure is necessary for the foregoing reasons, they shall immediately notify Owner of such determination in order that Owner may, at its option and its sole expense, seek in a timely fashion a protective order, or such other remedy, as it may determine appropriate. In the event that disclosure of any Confidential Information is ordered by a court or administrative agency, Architect shall give Owner not less than ten (10) business days notice, in writing, of such disclosure.

ARTICLE 13 TERMINATION OR SUSPENSION

13.1 Termination by Owner for Cause.

Owner shall have the right to terminate Architect under this Agreement upon written notice, effective immediately unless otherwise provided in said notice, if Architect shall fail to commence the Services in accordance with the provisions of this Agreement or fail to diligently perform the Services, fail to use acceptable personnel or Architects, fail to perform any of its obligations under this Agreement or any other Contract Document, or fail to make prompt payments to its Consultants. Any such act by Owner shall not be deemed a waiver of any other right or remedy of Owner. If Owner terminates Architect for cause, Owner agrees to immediately proceed with a Meeting of Principals to determine a proper accounting for all services rendered by Architect. If the Meeting of Principals fails to result in an appropriate Agreement as to solution of costs

for termination, Owner and Architect agree to proceed with the mediation, arbitration, or legal proceedings as set forth in Article 14.

13.2 Termination by Owner for Convenience.

13.2.1 Owner shall have the right to terminate Architect under this Agreement for its convenience without regard to fault or breach upon written notice, effective immediately unless otherwise provided in said notice. In the event of such termination, Owner shall pay as the sole amount due to Architect in connection with this Project sums due hereunder for Services performed to date plus reasonable demobilization costs, if any, incurred due to such termination. Such sums will be due and payable on the same conditions as set forth for final payment to the extent applicable. Upon receipt of such payment, the parties hereto shall have no further obligations to each other except for Architect's and its Consultants' obligation to indemnify Owner and maintain any insurance as provided for in this Agreement and Owner's obligations under Article 7.3. It is understood and agreed that no fee, anticipated profit or other compensation or payment of any kind or character shall be due or payable for unperformed Services regardless of the basis of termination and the inclusion of this provision within this subsection shall in no way limit its application to termination under this subsection. Architect agrees that each agreement with any Consultant entered into by it will reserve for Consultant the same right of termination provided by this subsection.

13.2.2 Upon a determination that any termination of Architect or its successor in interest was wrongful, such termination will be deemed converted to a termination for convenience pursuant to the proceeding provisions hereof and Architect's remedy for wrongful termination in such event shall be limited to the recovery of the payments permitted for termination for convenience as set forth above.

13.2.3 The rights and remedies of Owner and Architect in the event of termination herein set forth shall be non-exclusive, and shall be in addition to all the other remedies available at law or in equity.

13.3 Architect's Duty Upon Termination.

If Owner terminates Architect under this Agreement or if Architect terminates a Consultant with Owner's approval, Architect shall deliver all Deliverables, documents, records, reports, logs, diaries, estimates, contractor submittals and other items produced or purchased pursuant to this Agreement by Architect and/or its Consultants, as applicable, to Owner in an organized, usable form with all items properly labeled to the degree of detail specified by Owner. No compensation shall be due Architect until it complies with the requirements of this paragraph.

13.4 Partial Deletion or Suspension of Services.

13.4.1 Architect agrees that the Owner may determine and provide in writing, whether any or all of the Services described in this Agreement shall be deleted or its performance suspended without electing to terminate the Architect's performance under the Agreement and without any penalty being incurred by Owner. Any such partial deletion or suspension of the Services shall in no way void or invalidate this Agreement

nor shall it provide Architect any basis for seeking payment from Owner for Services deleted or suspended except to the extent such Services have already been performed and are otherwise billable under this Agreement, and Owner shall have the right to later have any Services suspended or deleted from this Agreement performed by others without any penalty to Owner. In the event of any such partial or complete deletion or suspension, Owner shall furnish Architect with prompt written notice thereof and Owner shall be entitled to have as its property all documents, records, logs, drawings, calculations, reports and other data prepared by or assets purchased by Architect or Consultants, of any tier, and shall pay Architect therefore. The Owner may require Architect to perform Services later during the term of this Agreement which were earlier deleted or suspended. Architect shall not resume any such Services until the Owner has issued a written notice to proceed or a change order. Architect shall identify the sequence of its deliverables for the Owner's review and acceptance. In the event Owner directs Architect to perform work out of sequence, additional Architectural and/or Engineering fees may be due the Architect.

13.4.2 If the Project is suspended by Owner for more than thirty (30) consecutive calendar days, Architect shall be compensated for services performed prior to notice of such suspension, as well as expenses incurred in the interruption and resumption of Architect's services.

13.4.3 If the Architect's services are suspended for more than ninety (90) consecutive calendar days, Architect shall be able to terminate this Agreement.

13.5 Manner of Payment Upon Termination, Partial Deletion or Suspension of Services.

Upon any deletion, suspension or termination by the Owner and upon receipt of a final certified invoice with one (1) original and two (2) copies, Owner shall pay Architect the amount, excluding disputed amounts, as determined by the Owner, due for the Services performed prior to such deletion, suspension or termination, less amounts previously paid.

13.6 If Owner fails to make payments to Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at Architect's option, cause for suspension of performance of services.

ARTICLE 14 DISPUTE RESOLUTION

14.1 Notice of Dispute Regarding Architect's Services

If Architect and Owner cannot agree as to the quality or acceptability of the Services, or whether Additional Services are required and/or the compensation payable to Architect under this Agreement, Owner or Architect may promptly give to the other a written notice thereof and, within sixty (60) calendar days after the event giving rise to the dispute, Architect and Owner shall each prepare a report which supports their respective positions and file the same with the other party. Architect's report shall include any possible claims against Owner, including the amount of additional compensation

requested. Thereafter, the Owner shall, with reasonable diligence, determine the quality or acceptability of Services, or whether a change in the Services is required, and/or the compensation payable to Architect. Submittal of the matter to Owner, as required by this Section, is a prerequisite to the right of Architect to contest any such matter in judicial or other proceedings and Architect expressly waives any right to so contest any decision(s) of Owner unless it has first presented the matter to Owner and within the time limits as provided herein.

14.2 Resolution of Disputes

Subject to the provisions of Article 10.1.1, to the extent there is any disagreement as to any services rendered by the Architect pursuant to this Contract, the Owner and Architect agree to immediately convene a Meeting of Principals. The Meeting of Principals will require the attendance of Calvin Abe on behalf of Architect, and the attendance of the Director of Public Works and/or their designee on behalf of the Owner. The Principals will attempt to resolve any question arising out of, or related to disagreement on an informal basis. If the Meeting of Principals does not resolve the issue, any claim, dispute or other matter in question arising out of, or related to this Agreement shall be subject to mediation as a condition precedent to the filing of any arbitration or legal or equitable proceeding by either party. Arbitration must be agreed upon by both parties before arbitration proceeds. In the absence of any agreement to submit to binding arbitration, all parties reserve their common law and statutory rights to proceed with litigation. All efforts will be made by both the Architect and the Owner to avoid any formal mediation, arbitration, or other legal proceeding.

The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them first by Meeting of Principals. Next, by mediation, and only thereafter, by arbitration, (if agreed upon), or by the filing of a subsequent lawsuit. If mediation is required, the parties agreed to mediate in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect, or, upon any other rules the parties agree to. If no agreement to mediation is reached, request for mediation shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a Demand for Arbitration (if agreed upon by both parties) but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless for a longer period of agreement of the parties or Court Order.

The Parties shall pay the Mediator's fee and any filing fees equally. Mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as Settlement Agreements in any Court having jurisdiction thereof.

14.3 Failure or Refusal to Mediate Dispute(s)

If, for any dispute or claim to which this Section applies, any party commences an action without first attempting to resolve the matter through Informal Dispute Resolution, or refuses to participate in Informal Dispute Resolution after a request has been made, then that party shall not be entitled to recover attorney fees, even if they

would otherwise be available to that party in any such action. This Section 11.5 shall not apply in the case of a party acting in accordance with Section 11.4 hereof where they reasonably believe that acting in a prompt manner is necessary in light of the circumstances to protect their interests.

ARTICLE 15 ENUMERATION OF CONTRACT DOCUMENTS

15.1 Contract Documents.

15.1.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written amendment signed by both Owner and Architect.

15.1.2 The "Contract Documents," except for amendments issued after execution of this Agreement, consist of the following documents, all of which are either attached hereto as Exhibits or are incorporated into this Agreement by this reference, with the same force and effect as if same were set forth at length herein;

This Agreement, including all exhibits and attachments:

Exhibit A – Scope of Services;

Exhibit B – Designated Representatives, Key Personnel, and Consultants;

Exhibit C – Basic Compensation, Hourly Rates, and Reimbursable Expenses for Architect and its Consultants; and

Exhibit D – Administrative Forms.

D-1 Amendment No. __ Agreement for Architectural Services

D-2 Change Order Form

D-3 Construction Change Directive (CCD) Form

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

The Architect hereby represents and warrants to the Owner that the Architect has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement, and that signature and execution of this Agreement has been duly authorized.

"ARCHITECT"



Signature

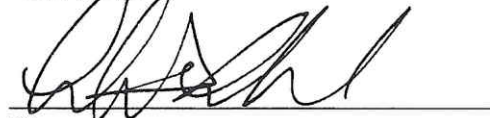
Carvin Abe

Name (please print)

PRESIDENT

Title

"OWNER"



Signature

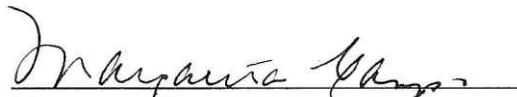
Michael Flad

Name (please print)

CITY MANAGER

Title

ATTEST:
Office of the City Clerk



Margarita Campos
City Clerk

Approved as to Form and Legal Content:
Dennis A. Barlow, City Attorney

By: 

Terry B. Stevenson
Senior Assistant City Attorney

EXHIBIT A – SCOPE OF SERVICES

GENERAL PROJECT INFORMATION

The scope for this renovation Project is currently and generally comprised of:

1. Park planning and innovative design, engineering and landscape architecture services from a qualified and experienced firm to prepare conceptual designs, facilitate community meetings, prepare the development of construction documents and specifications along with a project cost estimate for the entire infrastructure renovation of Johnny Carson Park's core section which is approximately 9 acres. In addition, the consultant will investigate other opportunities for the remaining portion of the park (17 acres total) to incorporate sustainable design elements to be phased in over time.
2. The City of Burbank has identified that the existing park needs improvement and updating in terms of overall appearance and function that relates to maintenance issues. Also, the park improvement design needs to serve as a model for sustainability as well as provide a design that will solve problems that the current park faces including the existing lighting system, accessible routes to the street and restrooms, vehicular/pedestrian bridges, existing park access road, play equipment, irrigation system, drainage area and stage area. Additionally, the architect is to take into account the restoration of the drainage channel within the park, mitigating the visual characteristics of the electrical towers, prepare a full interpretive educational program, research applicable grants, and a revision of the existing planting and irrigation system to minimize water consumption.

I. PROJECT SCHEDULE PARAMETERS

A. Schedule Parameters. Based on the completion of a mutually acceptable completion milestone schedule between the Owner and Architect, the following dates are anticipated at the time this PSA was approved.

1. Task 1.0 Schematic Design/Community Meetings – April 2011 to September 2011
2. Task 2.0 Design Development – October 2011 December 2011
3. Task 3.0 Construction Documents – January 2012 to July 2012
4. Task 4.0 Permitting Process – January 2012 to July 2012
5. Task 5.0 Bidding and Mobilization July 2012 to September 2012
(Council approval of Construction Documents and General Contractor's Construction Agreement).
6. Task 6.0 Construction Commencement/Completion Administration
October 2012 to July 2013
7. Plant Establishment Period July 2013-October 2013
8. Project Close-Out – October 2013.

II. SCOPE OF SERVICES

The Parties agree that the complete Services required for this Project and the Party responsible for providing such Services are enumerated in the Agreement and are as follows:

A. Basic Scope of Services

Task 1 Schematic Design

The purpose of this phase is to establish the design process, schedule, general budget, program requirements, and site constraints. It is our intent that this phase will be an interactive design process that includes three community meetings, design pin-ups, conceptual design discussions, and further definition of the client's needs. It is estimated that this phase will take 5 months to complete. Specific tasks include:

- 1.01 Host Project Kick-Off meeting with City of Burbank and Design Team to discuss project goals, design process, and schedule.
- 1.02 Perform utility search for all affected utilities in the project area including, but not limited to, water, electric, gas, sewer, communication, and storm drain. Develop a technical memorandum identifying each utility, as-built drawing numbers, contact information for each utility, and their existing and proposed structures in the project area.
- 1.03 Perform design topographic mapping and boundary survey for the project's A.P.N. 2484-025-272 & 900. Obtain current title report for the project's A.P.N. to identify the right-of-way of the park.
- 1.04 Prepare preliminary CAD base maps in AutoCAD format (DWG) for design studies and analysis.
- 1.05 Perform stream assessment that will include assessment of the existing geomorphic conditions of the project area stream; review of a local, analogous reference stream; data reduction of assessment data; preparation of *Stream Restoration Assessment Memo* that proposes alternative approaches to restoration of the stream based on existing geomorphic conditions, reference stream surveys, and historical characterization.
- 1.06 Preparation of Geotechnical Report including subsurface exploration, report preparation, laboratory testing, and percolation testing.
- 1.07 Facilitate Community Workshop #1.
- 1.08 Schematic stream restoration design to address stream alignment, stormwater mitigation, native landscaping and habitat restoration, and site accessibility. This includes review of hydraulic analysis and prepare criteria for proposed stream restoration; preparation of two freehand stream restoration alternatives along with guidelines for meander pattern, plan and profile; two (2) Design Team meetings to determine preferred stream restoration design approach; submit one (1) preferred schematic design stream restoration in freehand plan sketch format; AutoCAD Civil 3D plan, profile, and sections of proposed stream for a single round of modeling; prepare preliminary riparian plant list and the locations of typical tree, shrub, and seeded riparian grass area.
- 1.09 Prepare preliminary conceptual grading plan.
- 1.10 Prepare preliminary conceptual electrical site plan.

- 1.11 Prepare preliminary interpretive signage program including desired visitor experience, outline of interpretive plan incorporating content from community workshops, and rough conceptual sketches of sign plans and graphics for exhibits.
- 1.12 Prepare three (3) Conceptual Landscape Plan alternatives for submittal to City of Burbank.
- 1.13 Present alternatives to City of Burbank.
- 1.14 Facilitate Community Workshop #2.
- 1.15 Consolidate Conceptual Landscape Plan alternatives into one (1) plan based on comments from City of Burbank.
- 1.16 Facilitate Community Workshop #3.
- 1.17 Revise and submit colored Conceptual Landscape Plan to City of Burbank.
- 1.18 Submit cost estimate for Conceptual Landscape Plan to City of Burbank.
- 1.19 City of Burbank Review Period #1.

Task 2 Design Development

Following written Schematic Design approval, the Landscape Architect shall complete the following tasks. It is anticipated that this phase will take 3 months to complete:

- 2.01 Host Design Charette with Design Team to initiate Design Development phase.
- 2.02 Prepare Stream Restoration drawings for coordination and review. Includes two (2) Design Team meetings to consult on the stream restoration work and its connection to the overall park setting and design; consulting on the interpretive design related to the stream restoration, public access, and discussions on integrating the stream restoration work into the overall park setting and design.
- 2.03 Prepare Electrical Site Plan.
- 2.04 Prepare refined hardscape plans
- 2.05 Prepare refined planting plans
- 2.06 Prepare refined conceptual irrigation plans
- 2.07 Assemble color photographic images of proposed trees, shrubs, and ground covers into report.
- 2.08 Assemble color photographic images of proposed site furnishings (benches, tables, lighting) into report – with product information including the manufacturers, models, sizes, finishes, colors, and special remarks.
- 2.09 Prepare play equipment alternatives.
- 2.10 Design preliminary interpretive frame design and graphic sign layouts. This includes preliminary layout of graphic panels with images and draft text; exhibit site plan on existing base map, and schematic level frame design and graphic sign layouts.
- 2.11 Submit 90% DD Package for review by City of Burbank.
- 2.12 City of Burbank Review Period #2.
- 2.13 Revise 90% DD Package based on comments received from City of Burbank.
- 2.14 Submit 100% DD Package for review by City of Burbank.
- 2.15 Submit 100% DD Cost Estimate to City of Burbank.
- 2.16 City of Burbank Review Period #3.

Task 3 Construction Documents

Following written Design Development approval, the Landscape Architect shall complete the following tasks. It is anticipated that this phase will take 6 months to complete.

- 3.01 Meet with City of Burbank Park, Recreation & Community Services Board to present for approval design plans prior to preparation of final Construction Documents.
- 3.02 Meet with City of Burbank City Council to present for approval design plans prior to preparation of final Construction Documents.
- 3.03 Host Design Team coordination meeting to initiate Construction Document phase and address comments from City of Burbank.
- 3.04 Prepare hardscape layout plans (16 scale) with enlargements (8 scale) showing horizontal control dimensions and construction detail call-outs.
- 3.05 Prepare planting plans (16 scale).
- 3.06 Prepare irrigation plans (16 scale).
- 3.07 Prepare details for construction of hardscape, planting, and irrigation.
- 3.08 Prepare grading and drainage plan. As the park site will be redone, the grading and drainage plans will be prepared for the park site where proposed features will be included. The drainage will include the design of features to ensure proper drainage is provided for the site improvements. The Civil Engineer will prepare Survey Control Point Plans that will be used by the Contractor for the construction of the project. This task also includes Erosion Control Notes, General Notes, and Grading Notes.
- 3.09 Perform hydraulic analysis for stream. Includes obtaining flow rates from the County of Los Angeles for the proposed stream restoration. This initial hydraulic analysis will be provided to the stream restoration consultant who will provide plan, profile, and stream sections for Civil's inclusion in the final hydraulic analysis.
- 3.10 Prepare bridge assessment report based on proposed usage. Engineer will evaluate the condition of the steel structure for significant deterioration or rusting, wood deck conditions, and bridge support structures to evaluate displacement. The bridges will be evaluated based on the current and potential future use for the bridges.
- 3.11 Prepare structural engineering for light pole footings.
- 3.12 Prepare stream restoration plans.
- 3.13 Prepare drawings for new roadway and access to parking lot. It is assumed for the purposes of this fee proposal that the new roadway design may include a small retaining wall. Civil will also prepare striping and signage plans for the new roadway.
- 3.14 Prepare final exhibit structure drawings and finalize interpretive graphics. This includes plans, elevations, sections, and details; as well as typography, style, colors, materials, mounting and finishes; final photo and image retouch; final design production for graphics; final design drawings and graphics for fabrication.
- 3.15 Prepare electrical plans.
- 3.16 Prepare CSI specifications for relevant sections.
- 3.17 Submit 30% Construction Documents and revised cost estimate for review by City of Burbank.

- 3.18 City of Burbank Review Period #4.
- 3.19 Host Design Team coordination meeting to review City of Burbank comments on 30% CD package.
- 3.20 Revise 30% CD package based on comments from City of Burbank.
- 3.21 Submit 60% Construction Documents and revised cost estimate for review by City of Burbank.
- 3.22 City of Burbank Review Period #5.
- 3.23 Host Design Team coordination meeting to review City of Burbank comments on 60% CD package.
- 3.24 Revise 60% CD package based on comments from City of Burbank.
- 3.25 Submit 90% Construction Documents and revised cost estimate for review by City of Burbank.
- 3.26 City of Burbank Review Period #6.
- 3.27 Host Design Team coordination meeting to review City of Burbank comments on 90% CD package.
- 3.28 Revise 90% CD package based on comments from City of Burbank.
- 3.29 Submit 100% CD Cost Estimate to City of Burbank.
- 3.30 Submit 100% Construction Documents for review by City of Burbank.
- 3.31 City of Burbank Review Period #7.
- 3.32 Host Design Team coordination meeting to review City of Burbank comments on 100% CD package.
- 3.33 Revise 100% CD package based on comments from City of Burbank.
- 3.34 Secure regulatory permits including Section 404 Nationwide Permit, Section 401 Water Quality Certification, and Section 1603 Department of Fish and Game agreement.
- 3.35 Assist City of Burbank as necessary to obtain approvals from Caltrans, County of Los Angeles Flood Control District, and City of Los Angeles Department of Water and Power.
- 3.36 Research Potential Grant Funding Opportunities that may fund construction of the final design. Research shall include web research, phone calls, and attendance at up to two (2) program-specific grant workshops. The deliverable for this task will be recommendations for grants to pursue and a preliminary estimate of grant application costs.
- 3.37 Submit Bid Documents to City of Burbank.

Task 4 Bidding & Mobilization

The focus of this 2-month phase will be to assist the City of Burbank in the bidding of the project, including but not limited to attending the pre-bid meeting, answering potential Contractors questions during the bid period, and issuing supplemental instructions as needed.

- 4.01 Bid Period: Attend Pre-Bid Meeting, Respond to Requests for Information (RFI), Issue Architect Supplemental Instruction (ASI) as needed.
- 4.02 Award of Contract and Contractor Mobilization

Task 5 Construction Administration

Once the construction contract is awarded, the Landscape Architect shall play a support role to the City of Burbank Park, Recreation, and Community Services Department who will be administering the construction of the project. The Landscape Architect shall complete the following tasks during the estimated 9-month construction period:

- 5.01 Attend Pre-Construction Meeting.
- 5.02 Review all Contractor Submittals. This includes review of color proofs for interpretive signage design.
- 5.03 Attend Construction Project Meetings: this fee proposal accounts for the Landscape Architect to attend eighteen (18) meetings over the course of the project including the pre-construction meeting; regular construction meetings; nursery visits to select trees 24" box size and larger per the requirements of the project specifications; review of hardscape layout; review of planting layout; review of irrigation coverage; pre-maintenance punch walk; and final punch list job walk.
- 5.04 Attend six (6) meetings specific to the restoration of the existing stream focused on review of preliminary stream alignment; stream grading observation; bioengineering demonstration; rock placement; and plant layout.
- 5.05 Prepare as-built plans.
- 5.06 Develop Punch List Prior to Final Acceptance.
- 5.07 Prepare Meeting Notes after all Site Visits.

B. Designated Services/Responsibility Matrix.

| Services | Responsibility | Responsible Party |
|---|--|--|
| Owner's Representative | City of Burbank | Park, Recreation & Community Services Department |
| Topographical Site Survey | Architect – AHBE Landscape Architects | CWE California Watershed Engineering |
| Soils Engineer (Soils Report) | Architect – AHBE Landscape Architects | CWE |
| Geotechnical Engineering | Architect – AHBE Landscape Architects | Geotechnologies, Inc. |
| Design Team Project Administration | Architect – AHBE Landscape Architects | AHBE and PRCS |
| Design Team Inter-Disciplinary Coordination and Quality Control | Architect – AHBE Landscape Architects | AHBE |
| Owner-Supplied Document Coordination | Architect w/Owner Support | AHBE |
| Design Team Project Deliverables Schedule | Architect w/Owner Support | AHBE |
| Value Management | Architect w Owner Support | AHBE & PRCS |
| Constructability Reviews | Architect w/Owner Support | AHBE & PRCS |
| Regulatory Permits | Architect – AHBE | CWE |

| | | |
|--|---|--------------------------------|
| | Landscape Architects | |
| Programming/Scheduling Confirmation | Architect w/Owner Support | AHBE & PRCS |
| Architectural | Architect – AHBE Landscape Architects | AHBE |
| Structural/Civil Engineering | Architect – AHBE Landscape Architects | CWE |
| Hydraulic Analysis | Architect – AHBE Landscape Architects | CWE |
| Play Equipment | Architect – AHBE Landscape Architects | AHBE & PRCS |
| Drainage Swale Sustainable Design | Architect – AHBE Landscape Architects | CWE |
| Interpretive Program Design and Implementation | Architect – AHBE Landscape Architects | AHBE & Leslie Stone Associates |
| Host Project Kick-Off meeting with City of Burbank and Design Team. Location to be determined and provided by City. | Architect – AHBE Landscape Architects | AHBE |
| Host (2_ two Design Charette. Location and time to be determined and provided by City. | Architect – AHBE Landscape Architects | AHBE & PRCS |
| FF&E - Selection & Specification | Owner w/Architect Support | AHBE & PRCS |
| Infrastructure, Drawing, Specifications and Coordination for project's entirety. | | AHBE & PR&CS |
| | Architect w/Owner Support | |
| Host a minimum of (6) six Design Team Coordination meetings | Architect w/Owner Support | AHBE & PRCS |
| Present to Burbank City Council for approval design plans prior to preparation of final construction documents (2) two meetings. | Architect w/Owner Support | AHBE & PRCS |
| Plan Check & Bid Phase Support Services | Architect w/Owner Support | AHBE & PR&CS. |
| Project Manual (Specifications, City Contract, General and Special Conditions, and related Support Documentation) | | AHBE & PR&CS |
| | Architect w/Owner Support | |
| Substitutions - Architect will respond to substitution requests by General Contractor. | | |
| | Architect | AHBE |
| Construction Administration | Architect/Owner Support | AHBE & PRCS |
| Submittal Review | Architect w/Owner Support | AHBE & PRCS |
| Site Observations & Reports | Architect w/Owner Support | Design Team |
| Testing and Inspection Administration | Architect w/Design Team | Design Team |
| RFI Response & Issuance of Supplemental Support Documentation as Required | Architect | Design Team |
| Contractor Change Request Review and Subsequent Change Order Processing | Owner – Architect to assist on a case by case basis | AHBE & PRCS. |
| Certificates for Payment – Architect is only required to sign-off administratively without any accountability and/liability | Owner | N.A. |
| | Design Team and Owner | |
| Punch List Efforts | | Design Team |
| | Design Team and Owner | |

| | | |
|---------------------------------------|------------------------|-------------|
| Project Close-Out | | Design Team |
| Record Drawings and As-Built Drawings | Architect & Contractor | NA |

C. Description of Architect's Designated Services.

In addition to, or to augment and/or clarify the Basic Services described in the Agreement, the Architect shall provide the following:

Project Administration Services.

a. Inter-Disciplinary Coordination/Document Checking.

i. Integration. Architect shall be responsible for a complete, integrated, and coordinated Project design and for the coordination of all drawings, specifications, and other necessary and complete design documents relating to the Services to be used on and for the Project, regardless of whether such drawings, specifications, and documents are prepared by the Architect and its Consultants. The Architect shall also be responsible for the integration only of design information (such as low voltage systems) provided by the Owner and/or the Owner's Separate Consultants. The Architect will not be responsible for design information provided to the Architect by the Owner and/or the Owner's Separate Consultants. Architect shall be responsible for the coordination and internal checking of all drawings and for the accuracy of all dimensions, layout information, and other necessary information contained therein, as fully as if each drawing, specification, or other document were prepared by the Architect. Architect shall be responsible for the completeness, accuracy, constructability, and bid-ability of all drawings, specifications, and other construction documents submitted by and/or through the Architect.

ii. Design Delegation to Contractor(s). Architect shall be permitted to delegate design responsibility only with the advance written authorization of the Owner for specific components of the design. Such deferred design responsibility shall be made known to the Owner by the Architect before the Construction Documents Phase is commenced. If professional design services or certifications by a design professional related to systems, materials and/or equipment are specifically required of the Contractor(s) for construction, the Architect shall specify all appropriate design and performance criteria that such services must satisfy, and the qualifications necessary to perform the services, and shall review the work product of the Contractor(s) delegated design for conformity to the design and performance criteria. Such design and performance criteria shall be clearly enumerated in the final Construction Documents.

iii. Design Delegation to Owner. Before performing any design services, the Architect shall inform the Owner in writing as to which of the information designated in this Agreement as "Owner-provided" is necessary for the performance of the Architect's Services. Upon the Owner's request, the Architect shall, as a Basic Service, prepare the scope of work for such services and identify qualifications necessary for such services as well as a list of Consultants that the Architect believes to be reputable, competent, and appropriately licensed to perform

such services. The Architect shall submit this request and list for Owner's approval and shall assist Owner in selecting such Consultants.

Design Services.

a. Schematic Design (SD) Phase Services.

i. The Project's program developed by the Owner and provided to the Architect as part of the RFP process represents the basis for completing the Schematic Design Phase Services. The Architect shall affirm all programming requirements through a process of interviewing Owner staff and perform all such other efforts deemed necessary by the Architect to ensure that sufficient information is made available and known to enable the SD Phase to be properly completed.

ii. The Architect shall prepare, for approval by the Owner, SD documents consisting of drawings and other documents illustrating the scale and relationship of programmed space and park plans including play equipment, lighting, bridge and stage assessment landscape and preliminary sections and elevations, and make preliminary recommendations for integrating sustainable strategies systems and materials consistent with Owner goals.

iii. In the further development of the drawings and specifications during this and subsequent design phases, the Architect shall endeavor to prepare such design in accordance with the Owner's \$2,000,000 construction cost as it may be amended from time to time.

At the conclusion of the Schematic Design Phase, the Architect shall schedule a meeting with the Owner and discuss and/or provide the following items listed below.

- description of key architectural, structural, mechanical, electrical, Sustainable strategy, and other primary design elements;
- Written document reflecting the Owner's Project requirements and Basis of Design to meet Sustainability goals. .
- preliminary evaluation of project's initial schedule;
- statement of performance standards, design criteria, and materials for construction; and
- a copy of the final SD documents as accepted by the Owner in a reproducible format and in computer media format.

b. Construction Documents (CD) Phase Services.

Based on the Owner approved Schematic Development Phase documents and any further adjustments in the Project scope and/or quality that may affect the Project's construction cost, the Architect shall prepare Construction Documents (CDs) consisting of drawings, specifications, and other related and required documents setting forth in detail the requirements for construction of the Project in accordance with program requirements and other applicable laws, regulatory requirements, current building codes, and regulations including final structural, mechanical, and electrical engineering

calculations. The CDs shall be comprehensive and coordinated between all disciplines and shall include a complete, coordinated, and Project-specific Project Manual (specifications). The Architect shall also incorporate corrections as required by the City's Development Review if any, and plan check process. The Architect shall also call for and conduct periodic meetings as required with the Owner and required Consultants during design and pre-construction and prepare and circulate minutes to Owner and revise as required. At the thirty percent (30%), sixty percent (60%) and ninety (90%) completion phases for the CDs, the Architect shall meet with the Owner and designated representatives to present the CDs, address specific concerns, and obtain Owner's acceptance and direction to proceed with final completion of the CDs. The final CDs shall set forth in detail the Work to be constructed including materials, workmanship, finishes, utility service connections, systems and equipment, and on-site work. The final CDs shall be in such a form to enable Owner to secure required permits and approvals from all federal, state, regional, and/or local agencies concerned with the Project and to enable Owner to obtain, by competitive bidding or another acceptable process to the Owner, a responsible and responsive bid. The final CDs shall be in a reproducible computer media format acceptable to Owner and the Architect has the obligation to provide CDs to the Owner in the requested reproducible format.

Plan Check & Bid Phase Services.

The Architect shall coordinate the initial, back-check(s), and final plan check process as necessary to secure all necessary agency approvals from all federal, state, regional, and/or local agencies. In addition, Architect shall distribute required addenda, supplementary drawings, specification revisions, instructions, and notices of changes in the bidding schedule and procedure as may be required, including evaluations of substitutions of materials and/or equipment requests. Architect shall attend a pre-construction conference and/or job site walk with the Owner's general contractor as scheduled by the Owner with respect to commencing the Work.

Construction Administration Phase Services.

a. Weekly Site Construction Meetings with Owner and General Contractor.

During the beginning of on-site work efforts by the Contractor, the Architect may not be required to visit the site weekly, but only if so requested by the Owner and only then on a case by case basis. Once construction has reached a level that warrants weekly on-site meetings, the Architect shall attend weekly on-site construction meetings with the Contractor and Owner. Meeting minutes will be generated and distributed by Contractor. The Architect shall be required to visit the construction site more than once a week if requested by the Owner and also at the Architect's sole discretion for such occasions and/or periods of time as may be warranted by the progress of the Work in order to maintain the Project's completion schedule. Such additional site visits shall be considered Basic Services.

b. Submittal Review.

Architect shall process all Contractor submittals. Architect shall distribute submittals to its Consultants and other service providers as required to fully maintain, at all times, the Construction Schedule. The general contractor will be required to provide the Owner with only those submittals the Owner requests in writing. The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as shop drawings, product data, and samples for the purpose of checking for conformance with information given and the design concept expressed in the Contract Documents, for assuring compliance with applicable laws, statutes, ordinances, codes, orders, rules, and regulations, and for assuring that the Work affected by and represented by such submittals is in full compliance with the Contract Document requirements. Architect shall be responsible for determining what aspects of the Work shall be the subject of shop drawings and submittals. Architect shall not knowingly permit such aspects of the Work to proceed in the absence of approved shop drawings and submittals. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction by the Owner's own forces or by Separate Contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review, but in no case shall the time exceed ten (10) business days for its review and subsequent instruction to the Contractor.

c. Site Visits and Reports.

i. The Architect and its Consultants shall visit the site at intervals appropriate to the stage of the Contractor's operations, progress, and completion efforts, or as otherwise agreed by the Owner and Architect to: (1) become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed; (2) endeavor to guard the Owner against defects and deficiencies in the Work; and (3) determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. The Architect shall carefully review the quality and quantity of the Work at least on a monthly basis as part of the Architect's Basic Services and shall identify Work not in conformance with the Construction Documents. The Architect shall report to the Owner, in writing, known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor.

ii. Neither the professional activities of the Architect, nor the presence of its employees and Consultants at the construction site, shall relieve the general contractor and any other entity of their obligations, duties, and responsibilities including but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. The Architect and its personnel have no authority to exercise any control over any contractor and/or their subcontractor(s) or any other entity or their employees in connection with their work or any health or safety precautions. The Owner agrees that the general contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident

in the Owner's agreement with the general contractor. The Owner also agrees that the Owner, the Owner's Representative, Architect, and the Architect's Consultants shall be indemnified and shall be made additional insureds under the general contractor's general liability insurance policy.

iii. The Architect shall have authority to recommend in writing that the Owner reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect shall have authority to recommend in writing that Owner require additional inspection and/or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed.

d. **Testing and Inspection Administration.** Architect and its Consultants shall evaluate compliance by architect's designated testing and inspection representatives and agencies with required scope, standards, and procedures. Architect and/or its Consultants shall review inspection and test reports and provide notification(s) to Owner and contractor only in the event of observed Work deficiencies.

e. **RFI Response and Supplemental Documentation.**

i. Architect shall answer all contractor initiated Requests for Interpretation (or Request for Information) ("RFI's") in writing and shall prepare, reproduce, and distribute supplemental details, drawings, specifications, and/or supplemental instructions as necessary, within five (5) business days. Architect's interpretations and decisions shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. Architect has a fiduciary obligation to the Owner to respond to each RFI in such a manner so as to protect the Owner from responses that may have a cost and/or schedule impact. If, in the Architect's sole assessment, its response to an RFI represents a "no cost/no schedule impact", the Architect shall so state in each and every RFI response as a matter of standard procedure and protocol.

ii. Architect shall periodically issue revised drawings and specifications that implement and reflect all answers to RFI's, including details and sketches prepared to address field conditions, Change Orders and Construction Change Directives (CCDs) and shall provide copies of the updated documents to Owner and general contractor so the general contractor can maintain an up-to-date field record document set. Architect shall issue updated documents in intervals of no greater than thirty (30) calendar days. This requirement shall be a condition precedent to the Architect's request for periodic monthly payment.

f. **Contractor Change Proposals.**

i. Prepare, reproduce, and distribute drawings, specifications, and other necessary forms such as Architect's Supplemental Instructions (ASI), Bulletins, or other supporting documents, and data to describe any Work to be added, deleted, and/or modified for Owner approval and execution.

ii. Review contractor change proposal requests for reasonableness and accuracy of scope, quantities, and costs of labor, equipment, and materials only if so directed by Owner. It is the Owner's specific intent to only involve Architect on a case-by-case basis in the event that such involvement is deemed necessary by the Owner to facilitate its review and acceptance of such contractor change proposals.

iii. Only if requested by Owner, Architect shall review and make recommendations relative to contractor's change requests in the time for completion of construction.

iv. Any such contractor change proposal requests shall be reviewed by the Architect and/or its Consultants only if requested by Owner and shall be completed within a reasonable time but in no event shall be more than twenty-one (21) calendar days after Owner's initial request.

g. Certificates for Payment.

The Architect shall not be required to maintain records of payments of the Construction Cost including Change Orders nor be responsible for reviewing, signing, and/or processing Payment Applications.

h. Interpretation.

The Architect shall render written decisions within a reasonable time, but in no event in excess of fourteen (14) calendar days, on claims, disputes or other matters in question between the Owner and contractor as provided in the Contract Documents.

i. Project Closeout.

The Architect shall conduct inspections and generate a Master Punch List in a form that is acceptable to the Owner to determine the date or dates of Substantial Completion to permit the Owner's beneficial occupancy including: a detailed inspection with the Owner's Representative and/or Owner's staff for conformity of the Work to the Contract Documents to verify the list submitted by the contractor of items to be completed and/or corrected; determination of the amounts to be withheld from contractor until final completion; securing and receipt of consent of sureties to reduction or partial release of retainage or the making of final payment; issuance of Certificate of Substantial Completion; inspections upon notice by the contractor(s) that the Work is ready for final inspection and acceptance; notification to Owner and contractor(s) of deficiencies found in follow-up inspections, if any; final inspection with the Owner's Representative and/or Owner's staff to verify final completion of the Work; receipt and transmittal of warranties, guaranties, shall receive from the contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

j. Record Drawings and As-Built.

Upon completion of the Work, the Architect shall compile for and deliver to the Owner a reproducible set of Record Documents conforming to the marked-up prints, drawings and other data furnished to the Architect by the General Contractor. This set of Record Documents shall show the reported location of the Work and significant changes made during the construction process. Because these Record Documents are based on unverified information provided by other parties and assumed reliable, the Architect cannot and does not warrant their accuracy. Not later than thirty (30) calendar days after Substantial Completion of the Project the general contractor shall transmit to the Architect redlined documents whose completion and accuracy have been a condition for approval of the general contractor's monthly payment application and the Architect shall review for completeness, correct where necessary, and forward to the Owner, warranties, guarantees, submittals and the Record Drawings showing all changes in the Work and selections made during the construction process, based on Record Drawings received from the general contractor including applicable addenda, clarifications, submittal information, and change orders that occurred during the Project. The Project Manual and all engineering calculations shall be provided to Owner in reproducible format at full size. In addition, the Record Drawings, comprised of all architectural, structural, mechanical, electrical, landscape, civil, interior acoustic, and special system plans, reflected ceiling plans, exterior elevations, alternative energy analyses and life cycle cost analysis, if any, shall be provided by the Architect to the Owner in an acceptable computer media format, including one full size hard copy set. Architect's obligation to provide the Record Drawings to Owner in the requested reproducible format shall be at Owner's expense.

Post Construction Services.

Architect shall provide the following Post Construction Services which shall be part of Architect's Basic Services:

a. CADD Drawings. Architect shall organize CADD-generated as-built drawings based on records maintained and drawn by the General Contractor. Such records shall be delivered by the general contractor to the Architect in an electronic format acceptable to the Architect and as specified in the General requirements.

b. Incorporate final changes to the As-Built drawing set as a result of its on-going updating efforts to the Construction Documents as a result of Request for Interpretations/Information (RFIs), Architect's Supplemental Instructions (ASIs), Architectural Sketches (ASKs), Bulletins, and/or other related design change documents.

III. EXCLUDED SERVICES

Services designated in the Agreement or herein as Owner-provided or Additional Services are excluded from the Scope of Services.

1. Preparation of plans, specifications, or cost estimates for renovations of the existing bridges or any proposed bridges.
2. Structural engineering beyond preparation of footing design for light standards, utilities, and play equipment.
3. Preparation of construction Storm Water Pollution Prevention Plans (SWPPP), dewatering plans or bypass plans. These will be required of the Contractor and reviewed by the Civil Engineer as a construction submittal.
4. Hydraulic analysis for the upstream watershed.
5. Modifications to the existing parking lot at the SE corner of the park site
6. Architecture design services including but not limited to the renovation of the existing restroom building.
7. Materials testing.
8. Agency processing except as noted above.
9. Fountain mechanical engineering (if required).
10. Waterproofing design and documentation.
11. Preparation of ADA access diagrams
12. Soil testing.
13. Arborist Report.
14. Review of plans with local Fire Department agencies.
15. Preparation of separate Street permit documents.
16. Caltrans drawings.
17. Permit application or Agency meetings.
18. Development and production of film/video presentations

EXHIBIT B – DESIGNATED REPRESENTATIVES, KEY PERSONNEL AND ARCHITECTS

I. BY ARCHITECT

A. Architect's Project Representative is: **Calvin Abe** PH: (310) 838-0448; Facsimile: (310) 204-2664 Mail: cabe@ahbe.com **Architect's Key Personnel are:**

| | <u>Title</u> | <u>Name</u> | <u>Time Commitment</u> |
|----------------------|--------------|------------------------|------------------------|
| Associate Manager | and | Evan Mather, RLA, ASLA | As Required |
| Principal | Project | Calvin Abe, ASLA | As Required |

B. Architect's Consultants are:

| <u>Discipline</u> | <u>Firm Name & Address</u> | <u>Contact Information</u> |
|--------------------------------------|--|--------------------------------------|
| Structural | California Watershed Engineering 2100 E. Howell Avenue, Suite 209 Anaheim, CA 92806-6003 | Vik Bapna, Principal – (714)385-2600 |
| Restoration Design Specialists | Restoration Design Group, LLC 618 Vincent Park, Redondo Beach, CA 90277-3124 | Jessica Hall, MLA, (213) 999-3042 |
| Interpretive Signage Program | Leslie Stone Associates 104 Caledonia Street Sausalito, CA 94965 | Leslie Stone (415) 332-3306 |
| Electrical Engineers | Kipust Engineering 12931 Killion Street Sherman Oaks, CA 91401 | Raymond Kipust, P.E, (818) 780-5354 |
| Geotechnical Engineering | Geotechnologies 439 Western Avenue Glendale, CA 91201 | Stanley Tang, P.E. (818) 240-9600 |
| Irrigation Design | Sweeney & Associates 38730 Sky Canyon Drive, Suite C Murrieta, CA 92563 | Daniel L. ZumMallen (951) 461-6830 |
| Cost Estimating | Jacobus & Yuang, Inc. 6477 Telephone Road, Suite 10 Ventura, CA 93003 | Jacobus Malan (805) 339-9434 |

II. BY OWNER

**Owner's Project Manager and Owner's Representative: Janice G. Bartolo,
Deputy Director – Park Services, 150 North Third Street, Burbank, CA
91502, Phone Number 818.238.5315, E-mail: jbartolo@ci.burbank.ca.us.**

**EXHIBIT C – BASIC COMPENSATION, HOURLY RATES, AND REIMBURSABLE
EXPENSES FOR ARCHITECT AND ITS CONSULTANTS**

Basic Compensation.

For Basic Services, as described herein and in **Exhibit A**, Basic Compensation shall be computed on the basis of percentage completion of services for the **Lump Sum Amount** of four hundred fifty eight thousand one hundred sixty three dollars (**\$458,163**) and not to exceed the amounts set forth in the following Schedule for Basic Compensation. Schedule of Values for Architectural Design, Bidding Support, Construction Administration, Specialty Consultants, Engineering Services, and Reimbursable Expenses:

Base Contract Services:

| | | |
|----|--------------------------------|-----------|
| 1. | Schematic Design | \$132,000 |
| 2. | Design Development | \$ 59,230 |
| 3. | Construction Documents | \$178,864 |
| 4. | Bidding & Mobilization | \$ 4,000 |
| 5. | Construction Observation | \$ 68,769 |
| | Estimated Reimbursables Budget | \$ 15,300 |

Total Compensation **\$458,163**

A. Architect's Hourly Rates

| Architect's In-House Design Staff | Staff Name | Hourly Rate |
|--|-------------------|--------------------|
| Senior Principal In Charge | Calvin Abe | \$205.00 |
| Project Manager | Evan Mather | \$126.00 |
| Senior Landscape Designer | Kiku Kurahashi | \$105.00 |
| Landscape Designer | Nick Vular | \$ 90.00 |
| Administrator/Clerical Staff | Kim Nierva | \$ 58.00 |

Architect's Hourly rates are inclusive of all profit, overhead, taxes, vacation, benefits and all other costs. The above listed Hourly Rates shall be used in the event the Architect's Scope of Services is modified. These Hourly Rates shall remain in effect throughout the Project's duration.

- B. The Owner recognizes receipt of Architect's and its Consultant's hourly rates provided as part of its October, 2010 proposal and cited herein by reference only. Notwithstanding this information, the Owner reserves its right to negotiate subsequent design services with Architect either on a Time and Materials Basis or Lump Sum Basis and that the hourly rate information as referenced herein may be used as a guide in determining such potential additional services.

C. Reimbursable Expenses.

In no event shall such Reimbursable Expenses exceed five hundred dollars (\$500) without Owner's prior knowledge and/or written approval in accordance with Article 4 "Additional Services" herein. Architect and its Consultants shall not be entitled to reimbursable expenses for telephone, facsimile, internet and data processing costs, and mileage to and from Owner offices and the Project's construction site. Architect shall obtain Owner's prior written approval for reimbursement of:

- 1) expedited delivery charges not due to delay by Architect;
- 2) extraordinary or out-of-town travel expenses;
- 3) document reproduction costs in excess of \$500; and
- 4) any individual cost, fee or expense in excess of \$250.

EXHIBIT D-1
AMENDMENT NO. ____ TO AGREEMENT FOR ARCHITECTURAL SERVICES

DATE: _____

PARTIES: "OWNER"

THE CITY OF BURBANK, a municipal corporation

Designated Official: Name: _____
Title: _____
Telephone: _____

Mailing Address: 275 E. Olive Avenue
P. O. Box 6459
Burbank, CA 91510

"ARCHITECT"

Representative: Name: _____
Title: _____
Telephone: _____

Mailing Address: _____

TIME: Original Commencement Date: _____
Original Completion Date: _____
Amended Completion Date: _____

COMPENSATION:

Original Cost of Service: \$ _____
Amendment to Cost of Service: \$ _____
Revised Cost of Service: \$ _____

THIS AMENDMENT TO THE AGREEMENT MUST BE EXECUTED BY THE ARCHITECT OR ITS REPRESENTATIVE AND THEN APPROVED AS TO FORM BY THE CITY ATTORNEY BEFORE THIS AGREEMENT MAY BE EXECUTED ON BEHALF OF THE CITY OF BURBANK.

1.0 Amendment and Ratification of Agreement. Owner and Architect entered into a written agreement dated _____ for Architect to provide _____ ("Agreement"). The following amendment is hereby made a part of the Agreement and shall be performed under the same terms and conditions as required by the Agreement. Except as modified herein, the Agreement shall remain in full force and effect and all of the terms of the original Agreement are hereby incorporated in this Amendment.

2.0 Additional Services. Architect, as an independent contractor agrees to perform during the term of the Agreement, each and every Additional Service set forth on the "Scope of Additional Services" attached hereto as **Attachment A**. The initiation of such Additional Service by the Architect will commence upon receipt of a written notice from the Owner authorizing Architect to proceed, and only to the extent of such authorization. The Additional Services of the Architect shall include the making of all investigations, studies, and analysis required by the conditions involved in each request of the Owner.

3.0 Compensation. The Owner shall pay the Additional Services of Architect on a fixed-price-basis as indicated on the Schedule of Compensation set forth in **Attachment B**.

4.0 Accord and Satisfaction. Architect understands and agrees that any adjustment in compensation and/or time for performance of Additional Services associated with this Amendment includes compensation to Architect for all direct costs, indirect costs and expenses it has incurred or may incur in connection with the change in Architect's Additional Services including, but not limited to, all costs, expenses and damages for any delay, disruption, acceleration, interference or hindrance and like costs associated with, resulting from or incidental to the change in Basic Services. Architect hereby agrees that payments under this Amendment and extension of the Completion Date, if any, represent full satisfaction and final settlement of all such costs, expenses and damages set forth in the preceding sentence and Architect waives and releases all claims for any additional costs or delays arising from this Amendment.

In recognition of the obligations stated in this Amendment, the parties have executed this Agreement on the date indicated above.

"ARCHITECT"

"OWNER"

Signature

Signature

Name (please print)

Name (please print)

Title

Title

ATTEST:
Office of the City Clerk

Approved as to Form and Legal Content:
Dennis A. Barlow, City Attorney

Margarita Campos, City Clerk

By: _____
Signature

Name

Title

EXHIBIT D-2

CHANGE AND EXTRA WORK ORDER

City of Burbank

Park, Recreation & Community Services

CHANGE ORDER #

P.O. No.: _____

BS No. _____

PROJECT:

Johnny Carson Park Infrastructure
Improvement Project
400 South Bob Hope Drive
Burbank, CA 91505

C.O. DATE:

ARCHITECT'S PROJECT NO.:

CONTRACT DATE:

Copies to:

City Clerk -
Original
Architect
Contractor
Purchasing

OWNER – City of Burbank

Park, Recreation & Community Services
150 N. 3rd Street
Burbank, CA 91510

TO CONTRACTOR – _____

The following Change Order is hereby made a part of the Contract Documents enumerated in the Agreement between City and Contractor dated _____ xx, 2010 and shall be performed under the same terms and conditions as required by the original Contract Documents. Except as modified herein, the original Contract Documents and all prior amendments shall remain in full force and effect and all of the terms of the Contract Documents are hereby incorporated in this Change Order.

THE CONTRACT IS CHANGED AS FOLLOWS:

Attachments:

Reference:

Other:

Dated:

CHANGE ORDER APPROVALS

The change in price for the Work referred to hereinafter is hereby approved for authorization by the City Manager as follows:

| | |
|--|--|
| The Original Contract Sum | |
| Net Change previously authorized by Change Orders | |
| The Contract Sum prior to this Change Order was: | |
| The Contract Sum will be Increased by this Change Order | |
| The New Contract Sum including this Change Order will be: | |
| The Contract Time will remain unchanged. | |
| The date of Final Completion as of this Change Order therefore is: | |

Not valid until signed by both Owner & Architect. Contractor's signature indicates its agreement herewith, including any adjustment in Contract Sum and/or Contract Time.

It is understood and agreed that any adjustment of the Contract Price associated with this Change Order includes compensation to the Contractor for all direct costs, indirect costs, and expenses it has incurred or may incur in connection with the change in the Contractor's Work, including but not limited to all costs, expenses and damages for any delay, disruption, acceleration, interference or hindrance and like costs associated with, resulting from, or incidental to the Change Order Work. Contractor hereby agrees that payments under this Change Order and extension of the Contract Time, if any, represent full satisfaction and final settlement of all such costs, expenses, delays, and damages set forth in the preceding sentence and Contractor waives and releases all claims for any and all additional costs or delays in the Contract Time.

Owner's Representative:

Recommended By:

Date: _____

General Contractor:

By:

Date: _____

CONSTRUCTION CHANGE DIRECTIVE

OWNER
ARCHITECT
CONTRACTOR

| |
|---|
| X |
| |
| |

Exhibit D-3

PARKS, RECREATION, & COMMUNITY SERVICES DIRECTOR - APPROVAL

I have confirmed with the Finance Department and therefore certify that the foregoing additional compensation is within the budgetary appropriation for this public improvement.

Date

Park, Recreation & Community Services Director

Date

Park, Recreation & Community Services Director

Distribution: Original – City Clerk

Copies (4) – Contractor, Purchasing Department, City Attorney, and PR&CS

FIELD
OTHER

| |
|--|
| |
| |

Park, Recreation & Community Services
150 North 3rd Street
Burbank, CA 91510

TO CONTRACTOR:

CHANGE DIRECTIVE No:

DATE:

ARCHITECT'S PROJECT No: _____

CONTRACT DATE: _____

CONTRACTOR PROPOSAL
No.: _____**Attachments:****Reason For Directive:****Requested By:****ACTION OR ADJUSTMENT REQUEST**

The proposed basis of adjustment to the Contract Sum is:

1. ☐ Lump Sum (Increase) / (Decrease) of \$ _____
2. ☐ Time & Material Not to Exceed: \$ _____ Submit time tickets to Owner CM each day.
3. ☐ Unit Price of \$ _____ per _____
4. ☐ Please submit an itemized proposal for changes in the Contract Sum and/or Contract Time for proposed changes to the Contract Documents described herein. Submit proposal within 15 calendar days, or notify the Architect and/or the Owner's Representative in writing of the date Contractor anticipates submitting its proposal.

☐ A. PROCEED WITH THIS WORK.

☐ B. DO NOT PROCEED.
5. ☐ The Work shall be carried out in accordance with the above direction issued in accordance with the Contract Documents without change in Contract Sum or Contract Time. If Contractor disputes this item, notify Architect/Owner CM Immediately and provide a Change Proposal with detailed breakdown per Contract Requirements.

When signed by the Owner and/or Architect and received by the Contractor, this document becomes effective immediately as a Construction Change Directive (CCD), and the Contractor shall proceed with the Work described above.

ARCHITECT:**OWNER:** (Signature only to Proceed with
Action described above in Items 1, 2, 3, & 4A)

BY _____

BY: _____

DATE _____

DATE: _____

Contractor's signature indicates its agreement with the proposed adjustment in Contract Sum and/or Contract Time set forth in this Construction Directive.

CONTRACTOR:

BY _____

DATE _____

